STATUTORY INSTRUMENTS

1975 No. 1357

WAGES COUNCILS

The Wages Regulation (Retail Bread and Flour Confectionery) (Scotland) Order 1975

Made - - - -	*12th August* 1975
Coming into Operation	*8th September* 1975

Whereas the Secretary of State has received from the Retail Bread and Flour Confectionery Trade Wages Council (Scotland) 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 (Retail Bread and Flour Confectionery) (Scotland) Order 1975.

2.—(1) In this Order the expression "the specified date" means the 8th September 1975, 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**(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 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 Wages Regulation (Retail Bread and Flour Confectionery) (Scotland) Order 1974**(d)** and the Wages Regulation (Retail Bread and Flour Confectionery) (Scotland) (Amendment) Order 1975**(e)** shall cease to have effect.

Signed by order of the Secretary of State.

12th August 1975.

R. J. Dawe,
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. 1974/714 (1974 I, p. 2753).
(e) S.I. 1975/218 (1975 I, p. 564).

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SCHEDULE

Article 3

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 fixed by the Wages Regulation (Retail Bread and Flour Confectionery) (Scotland) Order 1974 (hereinafter referred to as "Order B.F.C.S. (32)") as amended by The Wages Regulation (Retail Bread and Flour Confectionery) (Scotland) (Amendment) Order 1975 (hereinafter referred to as "Order B.F.C.S. (36)").

PART I: STATUTORY MINIMUM REMUNERATION

APPLICATION

1. Subject to the provisions of paragraphs 2, 8, 9 and 13, the minimum remuneration for workers to whom this Schedule applies shall be the remuneration set out in paragraphs 3, 4, 5 and 6:

Provided that any increase in remuneration payable under the provisions of paragraph 5 or 6 shall become effective on the first day of the first full pay week following the date upon which the increase would otherwise become payable under those provisions.

HOURS ON WHICH REMUNERATION IS BASED

2.—(1) The minimum remuneration specified in paragraphs 3, 4, 5 and 6 relates to a week of 40 hours exclusive of overtime; and, except as provided in paragraph 13, is subject to a proportionate reduction according as the number of hours worked is less than 40.

(2) In calculating the remuneration for the purpose of this Schedule recognised breaks for meal times shall, subject to the provisions of paragraph 10, be excluded.

MANAGERS AND MANAGERESSES

3. The minimum remuneration for managers and manageresses shall be the amount appearing in Column 2 of the following table against the amount of weekly trade shown in Column 1 of the said table:—

Column 1	Column 2	
Weekly trade	Area 1	Area 2
	per week £	per week £
Under £160	*26·30*	*26·10*
£160 and under £180	*26·45*	*26·25*
£180 „ „ £200	*26·60*	*26·40*
£200 „ „ £220	*26·70*	*26·50*
£220 „ „ £240	*26·80*	*26·60*
£240 „ „ £260	*26·90*	*26·70*
£260 „ „ £280	*27·00*	*26·80*
£280 „ „ £300	*27·10*	*26·90*
£300 „ „ £320	*27·20*	*27·00*
£320 „ „ £340	*27·30*	*27·10*
£340 „ „ £360	*27·40*	*27·20*
£360 „ „ £380	*27·45*	*27·25*
£380 „ „ £400	*27·50*	*27·30*
£400	*27·60*	*27·40*

The minimum remuneration for Managers and Manageresses employed in shops with a weekly trade in excess of £400 shall be the appropriate amount specified in the table above for a worker employed in a shop where the weekly trade is £400 and in addition 10p for every complete £20 of weekly trade in excess of that amount.

For the purposes of this paragraph, "weekly trade" shall be calculated half-yearly and based on the period of 12 months immediately preceding the commencement of each half-year in the following manner:—

(1) for the 26 pay weeks beginning with the fifth pay week following the last Saturday in February in any year, or for any part thereof, the weekly trade of a shop shall be one fifty-second of the amount of the total receipts for goods sold at that shop during the 52 weeks immediately preceding the last Saturday in February in that year;

(2) for the 26 pay weeks in any year immediately following (hereinafter called the "second period"), or for any part thereof, the weekly trade of a shop shall be one fifty-second of the amount of the total receipts in respect of goods sold at that shop during the 52 weeks immediately preceding the last Saturday in August of the same year as that in which the second period begins:

Provided that, so long as a shop has been under management for less than 52 weeks immediately preceding the last Saturday in February in any year or the last Saturday in August in any year, as the case may be, the weekly trade of that shop, for the purpose of calculating the weekly minimum remuneration payable in any pay week under the foregoing table, shall until such period of 52 weeks has elapsed be the amount of the total receipts for goods sold at that shop in the week immediately preceding such pay week and for the purpose of calculating such weekly minimum remuneration as aforesaid payable in respect of each of the first two pay weeks during which a shop is under management the weekly trade of that shop shall be the amount of the total receipts in respect of goods sold thereat in the first week during which the shop is under management.

TEMPORARY MANAGERS AND TEMPORARY MANAGERESSES

4.—(1) The minimum remuneration for temporary managers and temporary manageresses shall be—

(*a*) during the first two weeks of employment as such—the appropriate minimum remuneration for a manager or manageress, as the case may be, employed in a shop with a weekly trade of under £160; and

(*b*) thereafter—the appropriate minimum remuneration for a manager or manageress, as the case may be, at the shop in which the worker is employed.

(2) For the purposes of this paragraph where a worker commences a period of employment as a temporary manager or temporary manageress within six months of the termination of such a period of employment at the same shop, the two periods of employment shall be treated as continuous.

WORKERS OTHER THAN MANAGERS, MANAGERESSES, TEMPORARY MANAGERS, TEMPORARY MANAGERESSES, TRANSPORT WORKERS AND VAN SALESWORKERS

5. The minimum remuneration for workers of the classes specified in Column 1 of the following table, employed in Area 1 or Area 2, as the case may be, shall be the appropriate amount set out in Column 2:—

Column 1	Column 2	
	Area 1	Area 2
	per week £	per week £
Workers other than Managers, Manageresses, Temporary Managers, Temporary Manageresses, Transport Workers and Van Salesworkers—		
Aged 16 and under 17 years	*17·05*	*16·80*
„ 17 „ „ 18 „	*17·50*	*17·25*
„ 18 „ „ 19 „	*19·20*	*18·90*
„ 19 „ „ 20 „	*19·60*	*19·25*
„ *20* years or over	*24·00*	*23·60*

TRANSPORT WORKERS AND VAN SALESWORKERS

6. The minimum remuneration for transport workers and van salesworkers employed in Area 1 or Area 2, as the case may be, shall be the appropriate amount set out in Column 3 of the table below:—

Column 1	Column 2	Column 3	
Age of Worker	Vehicle with carrying capacity of	Area 1	Area 2
		per week £	per week £
Transport Worker:—			
20 years or over	1 ton or less	*27·30*	*26·75*
19 and under 20 years	1 ton or less	*23·15*	*22·95*
18 „ „ 19 „	1 ton or less	*22·00*	*21·90*
Under 18 years	1 ton or less	*20·20*	*20·15*
All ages	Over 1 ton	*27·60*	*27·05*
Van Salesworkers:—			
All ages	—	*27·75*	*27·20*

WORKERS WHO WORK IN TWO AREAS

7. The minimum remuneration applicable to a transport worker or to a van salesworker in any week in which he works in two areas shall be the remuneration which would be applicable if the worker worked solely at the bakery or depot from which he operates.

MINIMUM OVERTIME RATES

8. Overtime rates shall be payable to workers to whom this Schedule applies as follows:—

(1) For work on a Sunday—

(*a*) where time worked does not exceed 4 hours ... double time for 4 hours

(*b*) where time worked exceeds 4 hours—for all time worked ... ... double time

Provided that where it is, or becomes, the established practice in a Jewish undertaking for the employer to require attendance on Sunday instead of Saturday, the foregoing provisions of this paragraph shall apply in like manner as if in such provisions the word "Saturday" were substituted for "Sunday", except where such substitution is unlawful.

(2) In the case of workers other than transport workers or van salesworkers—for all time worked in excess of 40 hours in any week ... ... time-and-a-half

(3) In the case of transport workers—

(*a*) for the first 6 hours worked in excess of 40 hours in any week ... ... time-and-a-quarter

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

(4) In the case of van salesworkers—

(*a*) for the first 6 hours worked in excess of 40 hours in any week ... ... time-and-a-quarter

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

Provided that—

(i) the periods of 40 hours specified in sub-paragraphs (2), (3) and (4) of this paragraph shall be reduced by 7 hours in any week which includes one customary holiday and by 14 hours in any week which includes two customary holidays;

(ii) for the purposes of sub-paragraphs (2), (3) and (4) of this paragraph, no account shall be taken of any time—

(*a*) for which double time is payable under paragraph 9;

(*b*) worked on a day of customary holiday; or

(*c*) not exceeding 15 minutes on any day or one hour in the aggregate in any week worked by any worker (other than a transport worker or van salesworker) at a shop immediately after the closing of the shop to the public;

(iii) no overtime rate shall be payable to a manager or manageress except where the overtime worked was specifically authorised by the employer or his representative.

SPECIAL TIME

9. Where a worker who is a shop assistant within the meaning of the Shops Act 1950(a) works after 1 p.m. on a day which would have been his weekly half-holiday if the employer had not, under the proviso to sub-section (1) of section 17 or under sub-section (3) of section 40 of that Act, (suspension of weekly half-holiday in week preceding a bank holiday and in holiday resorts), been relieved of his obligation to allow the worker a weekly half-holiday, he shall be paid double time for all time so worked.

WAITING TIME

10. A worker shall be entitled to payment of the minimum remuneration specified in this Part of this Schedule for all the time during which he is present on the premises of the employer, unless he is present thereon in any of the following circumstances, that is to say—

(1) without the employer's consent, express or implied;

(2) for some purpose unconnected with his work and other than that of waiting for work to be given to him to perform;

(3) by reason only of the fact that he is resident thereon; or

(4) 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.

WORKERS WHO ARE NOT REQUIRED TO WORK ON A CUSTOMARY HOLIDAY

11. Where a worker is not required to work on a customary holiday he shall be paid for the day of customary holiday not less than the amount to which he would have been entitled under the provisions of this Schedule had the day not been a customary holiday and had he worked the number of hours ordinarily worked by him on that day of the week.

WORKERS WHO WORK ON A CUSTOMARY HOLIDAY

12. Where a worker works on a customary holiday he shall be paid not less than the amount to which he would have been entitled under the other provisions of this Schedule had the day not been a customary holiday and had he worked the number of hours ordinarily worked by him on that day of the week and, in addition thereto—

(1) for any time worked not exceeding 4 hours ...	double time for 4 hours
(2) for any time worked in excess of 4 hours up to a total of 8 hours	hourly rate
(3) for all time worked in excess of 8 hours ...	double time.

GUARANTEED WEEKLY REMUNERATION PAYABLE TO A FULL-TIME WORKER

13.—(1) Notwithstanding the other provisions of this Schedule, where in any week the total remuneration (including holiday remuneration) payable under those other provisions to a full-time worker is less than the guaranteed weekly remuneration provided under this paragraph, the minimum remuneration payable to that worker for that week shall be that guaranteed weekly remuneration:

(a) 1950 c. 28.

Provided that no guaranteed remuneration under this paragraph shall be payable to a worker in any week during which the worker was not throughout his normal working hours (excluding any time allowed to him as a holiday or during which he was absent from work in accordance with sub-paragraph (3) of this paragraph) capable of and available for work.

(2) Subject to sub-paragraph (3) of this paragraph, the guaranteed weekly remuneration shall be the remuneration to which the worker would be entitled under paragraph 3, 4, 5 or 6 for work in his usual occupation for the number of hours specified in sub-paragraph (1) of paragraph 2:

Provided that where the worker normally works for the employer on work to which this Schedule applies for less than 40 hours in the week by reason only of the fact that he does not hold himself out as normally available for work for more than the number of hours he normally works in the week, and the worker has informed the employer in writing that he does not so hold himself out, the guaranteed weekly remuneration shall be the remuneration to which the worker would be entitled (calculated as in paragraph 2) for the number of hours in the week normally worked by the worker for the employer on work to which this Schedule applies.

(3) Where in any week a worker at his request and with the written consent of his employer is absent from work during any part of his normal working hours on any day (other than a day of annual holiday allowed under Part II of this Schedule or a customary holiday or a holiday allowed to all persons employed in the undertaking or branch of an undertaking in which the worker is employed), the guaranteed weekly remuneration payable in respect of that week shall be reduced in respect of each day on which he is absent as aforesaid by one-sixth where the worker's normal working week is six days or by one-fifth where his normal working week is five days.

PART II: ANNUAL HOLIDAY AND HOLIDAY REMUNERATION

ANNUAL HOLIDAY

14.—(1) Subject to the provisions of paragraphs 15 and 16, an employer shall, between the date on which this Schedule becomes effective and 31st October 1975 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 has been employed by him during the 12 months immediately preceding the commencement of the holiday season for any one of the periods of employment (calculated in accordance with the provisions of paragraph 21) 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			
	Six days	Five days	Four days	Three days or less
12 months	*20 days*	*17 days*	*13 days*	*10 days*
not less than 11 months but less than 12 months ...	*11* „	*11* „	*11* „	*8* „
„ „ „ 10 „ „ „ „ 11 „ ...	*10* „	*10* „	*10* „	7 „
„ „ „ 9 „ „ „ „ 10 „ ...	*9* „	*9* „	*9* „	*6* „
„ „ „ 8 „ „ „ „ 9 „ ...	*8* „	*8* „	*8* „	*6* „
„ „ „ 7 „ „ „ „ 8 „ ...	*7* „	*7* „	*7* „	*5* „
„ „ „ 6 „ „ „ „ 7 „ ...	*6* „	*6* „	*6* „	*4* „
„ „ „ 5 „ „ „ „ 6 „ ...	*5* „	*5* „	*5* „	*3* „
„ „ „ 4 „ „ „ „ 5 „ ...	*4* „	*4* „	*4* „	*3* „
„ „ „ 3 „ „ „ „ 4 „ ...	*3* „	*3* „	*3* „	*2* „
„ „ „ 2 „ „ „ „ 3 „ ...	*2* „	*2* „	*2* „	*2* „
„ „ „ 1 month „ „ „ 2 „ ...	*1 day*	*1 day*	*1 day*	*1 day*

(2) Notwithstanding the provisions of the last foregoing sub-paragraph—

(*a*) the number of days of annual holiday which an employer is required to allow to a worker *in respect of a period of employment during the 12 months immediately preceding 1st April in any year*, shall not exceed in the aggregate:

(*i*) *in the case of a worker whose normal working week is five days or more, three times the number of days constituting the worker's normal working week, plus two days; and*

(*ii*) *in the case of a worker whose normal working week is four days or less, three times the number of days constituting the worker's normal working week, plus one day;*

(*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 1st January in the following year, then any day or days of annual holiday so allowed shall be treated as having been allowed during the holiday season;

(*c*) the duration of the worker's annual holiday in the holiday season ending on 31st October 1975, shall be reduced by any days of annual holiday duly allowed to him by the employer, under the provisions of Order B.F.C.S. (32), as amended by B.F.C.S. (36), between 1st April 1975 and the date on which the provisions of this Schedule become effective.

(3) In this Schedule the expression "holiday season" means in relation to the year 1975, the period commencing on 1st April 1975 and ending on 31st October 1975 and, in each succeeding year, the period commencing on 1st April and ending on 31st October of the same year.

15. Where at the written request of the worker at any time preceding the commencement of the holiday season in any year, his employer allows him any day or days of annual holiday and pays him holiday remuneration in respect thereof calculated in accordance with the provisions of paragraphs 18 and 19, then the annual holiday to be allowed in accordance with paragraph 14 in the holiday season in that year shall be reduced by the day or days of annual holiday so allowed prior to the commencement of that holiday season.

16.—(1) Subject to the provisions of this paragraph 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.

(2) (*a*) Where the number of days of annual holiday for which a worker has qualified exceeds the number of days constituting his normal working week, but does not exceed twice that number, the holiday may at the written request of the worker 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.

(*b*) Where the number of days of annual holiday for which a worker has qualified exceeds twice the number of days constituting his normal working week the holiday may be allowed as follows:—

(i) as to the number of days comprising twice the number of days constituting the worker's normal working week, in one or two periods of consecutive working days during the holiday season;

(ii) as to any additional days, either during the holiday season or before the beginning of the next following holiday season, such days to be consecutive unless otherwise agreed between the employer and the worker or his representative.

(3) For the purposes of this paragraph, days of annual holiday shall be treated as consecutive notwithstanding that a customary holiday on which the worker is not required to work for the employer or a day on which he does not normally work for the employer intervenes.

(4) Where a customary holiday on which the worker is not required to work for the employer immediately precedes a period of annual holiday or occurs during such a period and the total number of days of annual holiday required to be allowed in the period under the foregoing provisions of this paragraph, together with any customary holiday, exceeds the number of days constituting the worker's normal working week then, notwithstanding the foregoing provisions of this paragraph, the duration of that period of annual holiday may be reduced by one day and in such a case one day of annual holiday may be allowed on a day on which the worker normally works for the employer (not being the worker's weekly short day) in the holiday season.

(5) No day of annual holiday shall be allowed on a customary holiday.

(6) 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 (not being a customary holiday) or to a half-holiday under any enactment other than the Wages Councils Act 1959.

17. An employer shall give to a worker not later than 1st April in each year 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.

HOLIDAY REMUNERATION

18.—(1) Subject to the provisions of paragraph 19, 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 holiday, one day's holiday pay in respect of each day thereof.

(2) Where an annual holiday is taken in more than one period the holiday remuneration shall be apportioned accordingly.

19. Where any accrued holiday remuneration has been paid by the employer to the worker in accordance with paragraph 20 of this Schedule or with Order B.F.C.S. (32), as amended, in respect of employment during either or both of the periods referred to in paragraph 20, 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 or periods 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 B.F.C.S. (32), as amended.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

20. 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 12 months up to the preceding 31st 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 preceding 31st 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, during the period or periods in respect of which the said accrued holiday remuneration is payable, the worker has at his written request been allowed any day or days of holiday (other than days of holiday allowed by the employer under paragraph 15) for which he had not qualified under the provisions of this Schedule, any accrued holiday remuneration payable as aforesaid may be reduced by the amount of any sum paid by the employer to the worker in respect of such day or days of holiday;

(*c*) 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 of the employment would complete a normal working week commencing at the beginning of the notice.

CALCULATION OF EMPLOYMENT

21. For the purposes of calculating any period of employment qualifying a worker for an annual holiday or for any accrued holiday remuneration, the worker shall be treated as if he were employed for a month in respect of any month throughout which he has been in the employment of the employer.

PART III: GENERAL

DEFINITIONS

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

"AREA 1" means—

(1) all Burghs which, according to the Registrar-General's Preliminary Report on the Census of Scotland 1961, had a population of 5,000 or more;

(2) the following Special Lighting Districts, the boundaries of which have been defined, namely, Vale of Leven and Renton in the County of Dunbarton; and Larbert and Airth in the County of Stirling; and

(3) the following areas the boundaries of which were defined as Special Lighting Districts prior to 10th March 1943, namely, Bellshill and Mossend, Blantyre, Cambuslang, Larkhall and Holytown, New Stevenston and Carfin, all in the County of Lanark.

"AREA 2" means all localities other than those comprised in Area 1.

"CARRYING CAPACITY" means the weight of the maximum load normally carried by the 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.

"CUSTOMARY HOLIDAY" means New Year's Day, if it be not a Sunday or, if it be a Sunday, 2nd January; the local Spring Holiday, the local Autumn Holiday, Christmas Day, if it be not a Sunday or, if it be a Sunday, 26th December and three other days, observed by local custom as holidays, to be fixed by the employer and notified to the worker and any day proclaimed as a public holiday throughout Scotland.

"FULL-TIME WORKER" means a worker who normally works for the employer for at least 36 hours in the week on work to which this Schedule applies.

"HOURLY RATE" means the amount obtained by dividing the minimum remuneration to which the worker is entitled under paragraph 3, 4, 5 or 6 by 40.

"MANAGER", "MANAGERESS" means a worker, other than a temporary manager or temporary manageress, who is in charge of a shop, and has immediate control of—

(1) one or more other workers being full-time workers; or

(2) two or more part-time workers,

not being workers solely engaged in cleaning premises.

"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 12 months immediately preceding the commencement of the holiday season or, where accrued holiday remuneration is payable under (2) of paragraph 20 on the termination of the employment, during the 12 months immediately preceding the date of the termination of the employment:

Provided that—

(1) part of a day shall count as a day;

(2) 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.

"ONE DAY'S HOLIDAY PAY" means one-sixth of the average weekly earnings of the worker during the period immediately preceding the date of the annual holiday or the date of the termination of the employment, as the case may be, such average weekly earnings to be determined as follows:—

(a) where there are in the period at least four normal working weeks during which the worker has not been absent for any reason, other than on account of proved illness, accident or absence authorised by the employer, and has worked the number of daily hours usually worked by him (exclusive of overtime), by dividing by four the total remuneration (including overtime and other payments) earned in respect of the last four of such weeks, or

(b) where there are not four such weeks, by dividing the total remuneration including overtime and other payments earned by the worker since his employment commenced by the number of weeks that he has been in that employment.

"TEMPORARY MANAGER", "TEMPORARY MANAGERESS" means a worker who, during the temporary absence (for a period of not less than one day) of a manager or manageress, carries out the duties of the manager or manageress, whilst the worker is so carrying out the said duties.

"TIME-AND-A-QUARTER", "TIME-AND-A-HALF" and "DOUBLE TIME" mean respectively one and a quarter times, one and a half times and twice the hourly rate.

"TRANSPORT WORKER" means a male worker (other than a van salesworker) engaged wholly or mainly in driving a mechanically propelled or horse drawn road vehicle for the transport of goods and on work in connection with the vehicle and its load (if any) while on the road.

"VAN SALESWORKER" means a worker wholly or mainly employed in the sale of goods to customers from a vehicle of which he is in charge.

"WEEK" means the period of six days commencing at midnight on Sunday and ending at midnight on the following Saturday.

WORKERS TO WHOM THIS SCHEDULE APPLIES

23.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, the workers to whom this Schedule applies are all workers employed in Scotland in any undertaking or any branch or department of an undertaking, being an undertaking, branch or department, wholly or mainly engaged in the retail bread and flour confectionery trade:

Provided that if a branch or department of an undertaking is not so engaged, this Schedule shall not apply to workers employed in that branch or department (notwithstanding that the undertaking as a whole is so engaged) except as respects their employment in a department of that branch if that department is so engaged.

(2) This Schedule does not apply to any of the following workers in respect of their employment in any of the following circumstances, that is to say:—

(i) workers in relation to whom either of the following Wages Councils operates in respect of any employment which is for the time being within the field of operation of that Wages Council, that is to say:—

(*a*) the Milk Distributive Wages Council (Scotland);

(*b*) the Road Haulage Wages Council;

(ii) workers in relation to whom any Wages Council (which was immediately before 30th May 1959 a Wages Board established under the Catering Wages Act 1943(a)) operates in respect of any employment which is for the time being within the field of operation of that Wages Council;

(iii) workers (other than workers employed as cleaners) employed in the maintenance or repair of buildings, plant, equipment or vehicles;

(iv) workers employed in any ship (which includes every description of vessel used in navigation);

(v) workers employed on post office business.

(3) For the purposes of this Schedule the retail bread and flour confectionery trade does not include the sale of biscuits or meat pastries or any sale for immediate consumption on the premises at which the sale is effected, but save as aforesaid consists of the sale by retail of bread (including rolls) or flour confectionery (including pastry) and operations connected with any such sale, including:—

(i) operations in or about a shop or other place where the bread or flour confectionery is sold, being operations carried on for the purpose of or in connection with such sale;

(ii) operations in connection with the transport of bread or flour confectionery when carried on in conjunction with its sale by retail;

(iii) clerical or other office work carried on in conjunction with the sale by retail as aforesaid and relating to such sale or to any of the operations specified in (i) or (ii) of this sub-paragraph;

and for the purposes of this definition "sale by retail" includes any sale to a person for use in connection with a catering business carried on by him, when such sale takes place at or in connection with a shop engaged in the retail sale of bread or flour confectionery to the general public.

(a) 1943 c. 24.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which has effect from 8th September 1975, sets out the increased statutory minimum remuneration payable and holidays to be allowed to workers in relation to whom the Retail Bread and Flour Confectionery Trade Wages Council (Scotland) operates, in substitution for the statutory minimum remuneration and holidays fixed by the Wages Regulation (Retail Bread and Flour Confectionery) (Scotland) Order 1974 (Order B.F.C.S. (32)), as amended by the Wages Regulation (Retail Bread and Flour Confectionery) (Scotland) (Amendment) Order 1975 (Order B.F.C.S. (36)). Order B.F.C.S. (32) and Order B.F.C.S. (36) are revoked.

New provisions are printed in italics.

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