1973 No. 61

WAGES COUNCILS

The Wages Regulation (Retail Food) (Scotland) Order 1973

Made - - - - 16*th January* 1973

Coming into Operation 26*th February* 1973

Whereas the Secretary of State has received from the Retail Food Trades 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)**, as modified by Article 2 of the Counter-Inflation (Wages Councils) Order 1972**(b)**, and now vested in him **(c)**, 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 Food) (Scotland) Order 1973.

2.—(1) In this Order the expression "the specified date" means the 26th February 1973, 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**(d)** 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 (Retail Food) (Scotland) Order 1972**(e)** shall cease to have effect.

Signed by order of the Secretary of State.

16th January 1973.

W. H. Marsh,
Assistant Secretary,
Department of Employment.

(a) 1959 c. 69.
(b) S.I. 1972/1856 (1972 III, p. 5399).
(c) S.I. 1959/1769, 1968/729 (1959 I, p. 1795; 1968 II, p. 2108).
(d) 1889 c. 63.
(e) S.I. 1972/165 (1972 I, p. 569).

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Article 3

The following minimum remuneration and provisions as to holidays and holiday remuneration shall be substituted for the statutory minimum remuneration and provisions as to holidays and holiday remuneration set out in the Wages Regulation (Retail Food) (Scotland) Order 1972 (hereinafter referred to as "Order R.F.C.S. (47)").

PART I: STATUTORY MINIMUM REMUNERATION

APPLICATION

1. Subject to the provisions of paragraphs 2, 7, 8 and 12, the minimum remuneration payable to workers to whom this Schedule applies shall be the remuneration set out in paragraphs 3, 4, 5 and 6.

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) *Until the date on which section 2 of the Counter-Inflation (Temporary Provisions) Act 1972*(a) *ceases to have effect* the minimum remuneration specified in this part of this Schedule relates—

(a) to a week of 41 hours exclusive of overtime; and

(*b*) *after section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect* to a week of 40 hours exclusive of overtime—

and except as provided in paragraph 12 (which deals with guaranteed weekly remuneration) is subject to a proportionate reduction according as the number of hours worked is less than—

(i) 41 *until the date on which section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect;* or

(ii) 40 *after section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect.*

(2) In calculating the remuneration for the purpose of this Schedule recognised breaks for meal times shall, subject to the provisions of paragraph 9 (which relates to waiting time), be excluded.

SHOP MANAGERS AND SHOP MANAGERESSES

3. Subject to the provisions of this paragraph, the minimum remuneration payable to Shop Managers and Shop Manageresses shall be the amount appearing in Column 2 of the following table against the amount of weekly trade shown in Column 1.

Column 1	Column 2	
Weekly Trade	Shop Manageresses All Areas	Shop Managers All Areas
	per week £	per week £
Under £50	*15·00*	*16·05*
£50 and under £60	*15·15*	*16·05*
£60 „ „ £70	*15·30*	*16·05*
£70 „ „ £80	*15·40*	*16·05*
£80 „ „ £90	*15·55*	*16·05*
£90 „ „ £100	*15·65*	*16·05*
£100 „ „ £110	*16·05*	*16·45*
£110 „ „ £120	*16·20*	*16·55*
£120 „ „ £130	*16·30*	*16·65*
£130 „ „ £140	*16·40*	*16·75*
£140 „ „ £150	*16·45*	*16·85*
£150 „ „ £160	*16·50*	*16·90*
£160 „ „ £170	*16·55*	*17·00*
£170 „ „ £180	*16·65*	*17·05*
£180 „ „ £190	*16·70*	*17·10*
£190 „ „ £200	*16·75*	*17·15*
£200 „ „ £210	*16·90*	*17·35*
£210 „ „ £220	*17·00*	*17·45*
£220 „ „ £230	*17·05*	*17·50*
£230 „ „ £240	*17·10*	*17·55*
£240 „ „ £250	*17·15*	*17·60*

(a) 1972 c. 74.

Column 1	Column 2	
Weekly Trade	Shop Manageresses All Areas	Shop Managers All Areas
	per week £	per week £
£250 „ „ £260	*17·20*	*17·65*
£260 „ „ £270	*17·25*	*17·70*
£270 „ „ £280	*17·30*	*17·75*
£280 „ „ £290	*17·35*	*17·80*
£290 „ „ £300	*17·40*	*17·85*
£300 „ „ £310	*17·65*	*18·10*
£310 „ „ £320	*17·70*	*18·15*
£320 „ „ £330	*17·75*	*18·20*
£330 „ „ £340	*17·80*	*18·25*
£340 „ „ £350	*17·85*	*18·30*
£350 „ „ £370	*17·90*	*18·35*
£370 „ „ £390	*17·95*	*18·40*
£390 „ „ £410	*18·00*	*18·45*
£410 „ „ £430	*18·05*	*18·50*
£430 „ „ £450	*18·10*	*18·55*
£450 „ „ £470	*18·15*	*18·60*
£470 „ „ £490	*18·20*	*18·65*
£490 „ „ £500	*18·25*	*18·70*
£500 „ „ £510	*18·30*	*18·75*
£510 „ „ £530	*18·35*	*18·80*
£530 „ „ £550	*18·40*	*18·85*
£550 „ „ £570	*18·45*	*18·90*
£570 „ „ £590	*18·50*	*18·95*
£590 „ „ £600	*18·55*	*19·00*
£600 „ „ £610	*18·60*	*19·05*
£610 „ „ £630	*18·65*	*19·10*
£630 „ „ £650	*18·70*	*19·15*
£650 „ „ £670	*18·75*	*19·20*
£670 „ „ £690	*18·80*	*19·25*
£690 „ „ £700	*18·85*	*19·30*
£700 „ „ £710	*18·90*	*19·35*
£710 „ „ £730	*18·95*	*19·40*
£730 „ „ £750	*19·00*	*19·45*
£750 „ „ £770	*19·05*	*19·50*
£770 „ „ £790	*19·10*	*19·55*
£790 „ „ £800	*19·15*	*19·60*
£800 „ „ £810	*19·20*	*19·65*
£810	*19·25*	*19·70*
For Shop Managers and Shop Manageresses employed in shops with weekly trade in excess of £810 per week there shall be added to the above amounts of weekly remuneration for Shop Managers and Shop Manageresses employed in shops with a weekly trade of £810, 5p for every additional complete £20 of weekly trade up to and including a weekly trade of £3,100.		
More than £3,100	*24·95*	*25·40*

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:—

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 and 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 in respect of goods sold at that shop in the week immediately preceding such pay week and for the purpose of calculating such weekly 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 for goods sold thereat in the first week during which the shop is under management.

TEMPORARY SHOP MANAGERS AND TEMPORARY SHOP MANAGERESSES

4.—(1) Subject to the provisions of this paragraph, the minimum remuneration payable to Temporary Shop Managers and Temporary Shop Manageresses during any of the periods of employment in Column 1 shall be at the rate appearing in Column 2 of the following table:—

Column 1	Column 2	
Continuous period of employment as Temporary Shop Manager or Temporary Shop Manageress	Temporary Shop Manageresses All Areas	Temporary Shop Managers All Areas
	per week £	per week £
(*a*) during the first two weeks	*14·75*	*16·15*
(*b*) during the third and fourth weeks... ...	*15·15*	*16·80*
(*c*) thereafter	the appropriate minimum remuneration for a Shop Manager or Shop Manageress, as the case may be, under the provisions of paragraph 3.	

Provided that where a Temporary Shop Manageress takes charge of a shop managed by a Shop Manager the weekly minimum remuneration payable to the Temporary Shop Manageress during the periods of employment in Column 1 shall be at the rate appearing in Column 2 of the following table:—

Column 1	Column 2
Continuous period of employment as Temporary Shop Manageress	Temporary Shop Manageresses All Areas
	per week £
(i) during the first two weeks	*15·00*
(ii) during the third and fourth weeks ...	*15·50*
(iii) thereafter	the appropriate minimum remuneration for a Shop Manageress under the provisions of paragraph 3.

(2) For the purposes of this paragraph where a worker commences a period of employment as a Temporary Shop Manager or Temporary Shop 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 SHOP MANAGERS, SHOP MANAGERESSES, TEMPORARY SHOP MANAGERS, TEMPORARY SHOP MANAGERESSES, CENTRAL TRANSPORT WORKERS AND RETAIL TRANSPORT WORKERS

5. Subject to the provisions of paragraph 1, the minimum remuneration payable to male or female 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			
	Male Workers		Female Workers	
	Area 1	Area 2	Area 1	Area 2
	per week £	per week £	per week £	per week £
(1) CLERKS GRADE I other than those referred to in (2) of this paragraph, CLERKS GRADE II, SHOP ASSISTANTS, CENTRAL WAREHOUSE WORKERS, TRANSPORT WORKERS (other than those referred to in paragraph 6) and all other workers being workers aged:—				
15 and under 16 years	*8·20*	*7·95*	*8·20*	*7·95*
16 „ „ 17 „	*8·60*	*8·35*	*8·50*	*8·25*
17 „ „ 18 „	*9·15*	*8·90*	*8·80*	*8·55*
18 „ „ 19 „	*10·55*	*10·25*	*10·25*	*9·95*
19 „ „ 20 „	*11·50*	*11·00*	*10·90*	*10·40*
20 „ „ 21	*12·55*	*12·05*	*12·00*	*11·50*
21 years or over	*15·50*	*14·80*	*14·00*	*13·45*
(2) CLERKS GRADE I aged 22 years or over	*15·75*	*15·00*	*14·10*	*13·65*

CENTRAL TRANSPORT WORKERS AND RETAIL TRANSPORT WORKERS

6. Subject to the provisions of paragraph 1, the minimum remuneration payable to Central Transport Workers and Retail Transport Workers employed in Area 1 or Area 2, as the case may be, on the types of vehicle described in Column 2 of the following table, shall be the appropriate amount set out in Column 3:—

Column 1	Column 2		Column 3	
Age of transport worker	Type of vehicle		Area 1	Area 2
	Mechanically propelled vehicle with carrying capacity of	Horse drawn vehicle		
(1) CENTRAL TRANSPORT WORKERS			per week £	per week £
21 years or over	1 ton or less	One-horse	*15·50*	*14·80*
20 and under 21 years			*14·15*	*13·55*
19 „ „ 20 „			*12·20*	*11·70*
18 „ „ 19 „			*11·35*	*10·95*
Under 18 years			*10·40*	*10·10*
All ages	Over 1 ton up to 2 tons	Two-horse	*15·65*	*14·95*
	Over 2 tons up to 5 tons	—	*15·65*	*14·95*
	Over 5 tons	—	*15·85*	*15·15*
(2) RETAIL TRANSPORT WORKERS				
All ages	Over 1½ tons up to 2 tons	Two-horse	*15·50*	*14·80*
	Over 2 tons up to 5 tons	—	*15·50*	*14·80*
	Over 5 tons	—	*15·70*	*15·00*

MINIMUM OVERTIME RATES

7. Subject to the provisions of this paragraph, overtime shall be payable at the following minimum rates:—

(1) For employment on a Sunday—

(*a*) Where the worker is required to work in connection with the preservation of perishable goods—

(i) where time worked does not exceed 2 hours... double time for 2 hours

(ii) where time worked exceeds 2 hours—for all time worked ... ... double time

(*b*) Where the worker is required to work for any reason other than that referred to in (*a*) of this sub-paragraph—

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

(ii) 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 any week, exclusive of any time

(*a*) in respect of which a minimum overtime rate is payable under the foregoing provisions of this paragraph;

(*b*) in respect of which a special time rate is payable under the provisions of paragraph 8;

(*c*) worked on a customary holiday; or

(*d*) worked immediately after the closing of the shop to the public not exceeding 15 minutes on any one day or one hour in the aggregate in any week;

for all time worked in excess of 41 hours, *until the date on which section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect*, and in excess of 40 hours *after section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect* ... ... time-and-a-half:

Provided that in any week which includes one customary holiday the period of 41 hours, *until the date on which section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect*, and of 40 hours *after section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect* shall be reduced by 7 hours and, in any week which includes two customary holidays, by 14 hours.

Overtime rates in accordance with the foregoing provisions of this paragraph shall be payable to a Shop Manager or Shop Manageress only if the overtime worked is specifically authorised by the employer or his representative.

SPECIAL TIME

8. The following special time rate shall be payable to a worker who is a shop assistant within the meaning of the Shops Act 1950(a)—

On the worker's weekly half day, where, under section 40 of the Shops Act 1950, the employer is relieved of his obligation to allow the worker a weekly half day—

for all time worked after 1.30 p.m. ... ... double time.

WAITING TIME

9. A worker shall be entitled to payment of the minimum remuneration specified in 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.

(a) 1950 c. 28.

WORKERS WHO ARE NOT REQUIRED TO WORK ON A CUSTOMARY HOLIDAY

10. Where a worker is not required to work on a customary holiday he shall be paid for the customary holiday not less than the amount to which he would have been entitled under the arrangement current immediately prior to the holiday 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

11. 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 arrangement current immediately prior to the holiday 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

(1)	for any time worked not exceeding 2 hours	double time for 2 hours
(2)	for any time worked in excess of 2 hours but not in excess 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

12.—(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: Provided that the worker throughout his normal working hours in that week (excluding any time allowed to him as a holiday or during which he is absent from work in accordance with sub-paragraph (3) of this paragraph) is capable of and available for work.

(2) The guaranteed weekly remuneration is the remuneration to which the worker would be entitled under paragraph 3, 4, 5 or 6 for 41 hours' work in his usual occupation *until the date on which section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect* and for 40 hours' work in his usual occupation *after section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect.*

(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 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

13.—(1) Subject to the provisions of paragraph 14, an employer shall, between 1st April 1973 and 31st October 1973, 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 20) 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
12 months...	12 days
Not less than 11 months but less than 12 months	11 „
„ „ „ 10 „ „ „ „ 11 „	10 „
„ „ „ 9 „ „ „ „ 10 „	9 „
„ „ „ 8 „ „ „ „ 9 „	8 „
„ „ „ 7 „ „ „ „ 8 „	7 „
„ „ „ 6 „ „ „ „ 7 „	6 „
„ „ „ 5 „ „ „ „ 6 „	5 „
„ „ „ 4 „ „ „ „ 5 „	4 „
„ „ „ 3 „ „ „ „ 4 „	3 „
„ „ „ 2 „ „ „ „ 3 „	2 „
„ „ „ 1 month „ „ „ 2 „	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 any holiday season shall not exceed in the aggregate twice the number of days constituting the worker's normal working week;

(*b*) where a worker does not wish to take his annual holiday or part thereof during the holiday season in any year and, before the expiration of such holiday season, enters into an agreement in writing with his employer that the annual holiday or part thereof shall be allowed, at a date or dates to be specified in that agreement, after the expiration of the holiday season but before the first day of 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.

(3) In this Schedule the expression "holiday season" means, in relation to an annual holiday during the year 1973, the period commencing on 1st April 1973 and ending on 31st October 1973, and, in relation to each subsequent year, the period commencing on 1st April and ending on 31st October in that year.

14. Where at the written request of the worker at any time during the three months immediately 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 17 and 18, then

(1) the annual holiday to be allowed in accordance with paragraph 13 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; and

(2) for the purpose of calculating accrued holiday remuneration under paragraph 19 any day or days of annual holiday deducted in accordance with sub-paragraph (1) hereof shall be treated as if they had been allowed in the holiday season.

15.—(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) 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 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.

(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 or after the holiday season in the circumstances specified in sub-paragraph (2)(*b*) of paragraph 13.

(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.

16. An employer shall give to a worker not later than the first day of 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.

REMUNERATION FOR ANNUAL HOLIDAY

17.—(1) Subject to the provisions of paragraph 18, 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.

18. Where any accrued holiday remuneration has been paid by the employer to the worker (in accordance with paragraph 19 of this Schedule or with Order R.F.C.S.

(47)) in respect of employment during either or both of the periods referred to in paragraph 19, 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 R.F.C.S. (47).

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

19. 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 occurring in the 12 months up to and including 1st April immediately preceding the termination date, 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 1st April immediately preceding the termination date, 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 connected with his employment 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 14) 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

20. For the purpose 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

21. For the purposes of this Schedule—

"AREA 1" and "AREA 2" have the meanings respectively assigned to them in paragraph 22.

"CARETAKER" means a worker wholly engaged in guarding the employer's premises for the prevention of theft, fire, damage or trespass.

"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.

"CENTRAL TRANSPORT WORKER" means a worker engaged wholly or mainly in driving a mechanically propelled or horse drawn road vehicle for the transport of goods from any receiving point to a Central Warehouse or Depot or from any Central Warehouse or Depot to Shops and on work in connection with the vehicle and its load (if any) while on the road.

"CENTRAL WAREHOUSE WORKER" means a worker wholly or mainly employed in a Central Warehouse, that is to say, a warehouse from which an undertaking in the retail food trades supplies its branch shops.

"CLERK GRADE I" means a worker engaged wholly or mainly on clerical work which includes responsibility for maintaining ledgers or wages books or for preparing financial accounts of the undertaking or of a branch or department thereof.

"CLERK GRADE II" means a worker, other than a Clerk Grade I, engaged wholly or mainly on clerical work.

"CUSTOMARY HOLIDAY" means—

1st and 2nd January (or, if either of these days fall on a Sunday, 3rd January shall be substituted for such day);

the local Spring holiday;

the local Autumn holiday;

Christmas Day (or, if Christmas Day falls on a Sunday, 26th December shall be substituted); and

two 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—

(*a*) by 41 *until the date on which section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect;* and

(*b*) by 40 *after section 2 of the Counter-Inflation (Temporary Provisions) Act 1972 ceases to have effect,*

the weekly minimum remuneration to which the worker is entitled under the provisions of paragraph 3, 4, 5 or 6 and "TIME-AND-A-HALF" and "DOUBLE TIME" mean, respectively, one and a half times and twice that rate.

"MONTH" means calendar month.

"ONE DAY'S HOLIDAY PAY" means one-sixth of the amount which the worker would be entitled to receive from his employer for a week's work under the arrangement current immediately prior to the annual holiday, or the termination date, as the case may be, if he worked his normal working week and the daily number of hours normally worked by him (exclusive of overtime).

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

"SHOP ASSISTANT" means (except in paragraph 8) a worker (other than a Clerk Grade I or a Clerk Grade II) wholly or mainly employed in or about the business of a shop or undertaking engaged—

(1) wholly or mainly in the retail food trades; or

(2) wholly or mainly in the retail food trades and one or more of the groups of retail distributive trades set out in the Appendix to paragraph 23, and to a greater extent in the retail food trades than in any one of those groups.

"SHOP MANAGER", "SHOP MANAGERESS" means the worker, other than a temporary shop manager or temporary shop manageress, who is employed at and is in charge of the shop and who has supervision of other workers (if any) employed at the shop.

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

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

"WEEKLY HALF DAY" means that day in any week on which a worker is, in accordance with the provisions of section 17 of the Shops Act 1950, required not to be employed about the business of a shop after half-past one o'clock in the afternoon.

AREAS

22. In this Schedule—

(1) "AREA 2" means all areas other than those defined in sub-paragraph (2) of this paragraph.

(2) "AREA 1" means—

(*a*) all Burghs which, according to the Preliminary Report on the Sixteenth Census of Scotland 1961, had a population of ten thousand or more;

(*b*) 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;

(*c*) 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; and

(*d*) the following Burghs—

ANGUS COUNTY
Brechin
ARGYLL COUNTY
Dunoon
AYR COUNTY
Ardrossan
Largs
Troon
BANFF COUNTY
Buckie
BUTE COUNTY
Rothesay
DUNBARTON COUNTY
Helensburgh
Milngavie
EAST LOTHIAN COUNTY
North Berwick
FIFE COUNTY
Burntisland
Leven
Lochgelly
St. Andrews
KINCARDINE COUNTY
Stonehaven
LANARK COUNTY
Lanark
MIDLOTHIAN COUNTY
Dalkeith
ORKNEY COUNTY
Kirkwall
RENFREW COUNTY
Gourock
ROSS AND CROMARTY COUNTY
Stornoway
STIRLING COUNTY
Denny and Dunipace
Kilsyth
WEST LOTHIAN COUNTY
Armadale
WIGTOWN COUNTY
Stranraer
ZETLAND COUNTY
Lerwick

WORKERS TO WHOM THIS SCHEDULE APPLIES

23.—(1) (i) 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 engaged—

(*a*) wholly or mainly in the retail food trades; or

(*b*) wholly or mainly in the retail food trades and one or more of the groups of retail distributive trades set out in the Appendix hereto, and to a greater extent in the retail food trades than in any one of those groups:

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 in the case of workers as respects their employment in a department of that branch if that department is so engaged.

(ii) For the purposes of this paragraph

(*a*) in determining the extent to which an undertaking or branch or department of an undertaking is engaged in a group of trades, regard shall be had to the time spent in the undertaking, branch or department on work in that group of trades;

(*b*) an undertaking or branch or department of an undertaking which is engaged in any operation in a group of trades shall be treated as engaged in that group of trades.

(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 any Wages Council operates (other than the Retail Food Trades Wages Council (Scotland)) in respect of any employment which is for the time being within the field of operation of that Wages Council;

(ii) workers employed on post office business;

(iii) workers for whom minimum rates of wages are fixed by the Scottish Agricultural Wages Board;

(iv) workers employed on the maintenance or repair of buildings, plant, equipment or vehicles (but not including workers employed as cleaners);

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

(vi) workers employed as caretakers.

(3) For the purpose of this Schedule the retail food trades do not include the sale by retail of bread, pastry or flour confectionery (other than biscuits or meat pastries) or the sale by retail of meat (other than bacon, ham, pressed beef, sausages, or meat so treated as to be fit for human consumption without further preparation or cooking) or the sale by retail of milk (other than dried or condensed milk) or the sale by retail of ice-cream, aerated waters, chocolate confectionery or sugar confectionery, or the sale of food or drink for immediate consumption, but save as aforesaid consist of the sale by retail of food or drink for human consumption and operations connected therewith including:—

(i) operations in or about the shop or other place where the food or drink aforesaid is sold, being operations carried on for the purpose of such sale or otherwise in connection with such sale;

(ii) operations in connection with the warehousing or storing of such food or drink for the purpose of sale by retail, or otherwise in connection with such sale, where the warehousing or storing takes place at a warehouse or store carried on in conjunction with one or more shops or other places where such food or drink is sold by retail;

(iii) operations in connection with the transport of such food or drink when carried on in conjunction with its sale by retail or with the warehousing or storing operations specified in (ii) of this sub-paragraph; and

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

and for the purpose of this definition "sale by retail" includes any sale of food or drink 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 food or drink to the general public.

APPENDIX TO PARAGRAPH 23

GROUPS OF RETAIL DISTRIBUTIVE TRADES

Group 1. The Retail Furnishing and Allied Trades, that is to say—

(1) the sale by retail of:—

(*a*) household and office furniture, including garden furniture, mattresses, floor coverings and mirrors, but excluding billiard tables, clocks, pianos, gramophones and pictures;

(*b*) ironmongery, turnery and hardware of kinds commonly used for household purposes, including gardening implements;

(*c*) hand tools;

(*d*) woodware, basketware, glassware, potteryware, chinaware, brassware, plasticware and ceramic goods, being articles or goods of kinds commonly used for household purposes or as household ornaments;

(*e*) electrical and gas appliances and apparatus, of kinds commonly used for household purposes (excluding clocks), and accessories and component parts thereof;

(*f*) heating, lighting and cooking appliances and apparatus, of kinds commonly used for household purposes, and accessories and component parts thereof;

(*g*) radio and television sets and their accessories and component parts;

(*h*) pedal cycles and their accessories and component parts;

(*i*) perambulators, push chairs and invalid carriages;

(*j*) toys, indoor games, requisites for outdoor games, gymnastics and athletics, but excluding billiard tables and sports clothing;

(*k*) saddlery, leather goods (other than articles of wearing apparel), travel goods and ladies' handbags;

(*l*) paint, distemper and wallpaper, and oils of kinds commonly used for household purposes (excluding petrol and lubricating oils);

(*m*) brushes, mops and brooms, used for household purposes, and similar articles;

(*n*) disinfectants, chemicals, candles, soaps and polishes of kinds commonly used for household purposes;

(2) operations in or about the shop or other place where any of the articles specified in (1) above are sold by retail, being operations carried on for the purpose of such sale or otherwise in connection with such sale;

(3) operations in connection with the warehousing or storing of any of the articles specified in (1) above for the purpose of the sale thereof by retail, or otherwise in connection with such sale, where the warehousing or storing takes place at a warehouse or store carried on in conjunction with one or more shops or other places where the said articles are sold by retail;

(4) operations in connection with the transport of any of the articles specified in (1) above when carried on in conjunction with their sale by retail or with the warehousing or storing operations specified in (3) above; and

(5) clerical or other office work carried on in conjunction with the sale by retail of any of the articles specified in (1) above and relating to such sale or to any of the operations specified in (2) to (4) above;

and for the purpose of this definition the sale by retail of any of the articles specified in (1) above does not include sale by auction (except where the auctioneer sells articles by retail which are his property or the property of his master) but includes the sale of any of the articles therein specified to a person for use in connection with a trade or business carried on by him if such sale takes place at or in connection with a shop engaged in the retail sale to the general public of any of the said articles.

Group 2. The Retail Drapery, Outfitting and Footwear Trades, that is to say—

(1) the sale by retail of:—

(*a*) wearing apparel of all kinds (including footwear, headwear and handwear) and accessories, trimmings and adornments for wearing apparel (excluding jewellery and imitation jewellery);

(*b*) haberdashery;

(*c*) textile fabrics in the piece, leather cloth, plastic cloth and oil cloth (but not including carpets, linoleum and other kinds of floor covering);

(*d*) knitting, rug, embroidery, crochet and similar wools or yarns;

(*e*) made-up household textiles (but excluding mattresses and floor coverings);

(*f*) umbrellas, sunshades, walking sticks, canes and similar articles;

(2) operations in or about the shop or other place where any of the articles included in (1) above are sold by retail, being operations carried on for the purpose of such sale or otherwise in connection with such sale;

(3) operations in connection with the warehousing or storing of any of the articles included in (1) above for the purpose of the sale thereof by retail, or otherwise in connection with such sale, where the warehousing or storing takes place at a warehouse or store carried on in conjunction with one or more shops or other places where the said articles are sold by retail;

(4) operations in connection with the transport of any of the articles included in (1) above when carried on in conjunction with their sale by retail or with the warehousing or storing operations specified in (3) above; and

(5) clerical or other office work carried on in conjunction with the sale by retail of any of the articles included in (1) above and relating to such sale or to any of the operations specified in (2) to (4) above;

and for the purpose of this definition the sale by retail of any of the articles in (1) above includes the sale of that article to a person for use in connection with a trade or business carried on by him if such sale takes place at or in connection with a shop engaged in the retail sale to the general public of any of the articles included in (1) above.

Group 3. The Retail Bookselling and Stationery Trades, that is to say—

(1) the sale by retail of the following articles:—

(*a*) books (excluding printed music and periodicals);

(*b*) all kinds of stationery including printed forms, note books, diaries and similar articles, and books of kinds used in an office or business for the purpose of record;

(*c*) pens, pencils, ink, blotting paper and similar articles;

(*d*) maps and charts;

(*e*) wrapping and adhesive paper, string, paste and similar articles;

(2) operations in or about the shop or other place where any of the articles specified in (1) above are sold by retail, being operations carried on for the purpose of such sale or otherwise in connection with such sale;

(3) operations in connection with the warehousing or storing of any of the articles specified in (1) above for the purpose of the sale thereof by retail, or otherwise in connection with such sale, where the warehousing or storing takes place at a warehouse or store carried on in conjunction with one or more shops or other places where the said articles are sold by retail;

(4) operations in connection with the transport of any of the articles specified in (1) above when carried on in conjunction with their sale by retail or with the warehousing or storing operations specified in (3) above; and

(5) clerical or other office work carried on in conjunction with the sale by retail of any of the articles specified in (1) above and relating to such sale or to any of the operations specified in (2) to (4) above.

Group 4. The Retail Newsagency, Tobacco and Confectionery Trades, that is to say—

(1) the sale by retail of the following articles:—

(*a*) newspapers, magazines and other periodicals;

(*b*) tobacco, cigars, cigarettes, snuff and smokers' requisites;

(*c*) articles of sugar confectionery and chocolate confectionery, and ice-cream;

(2) operations in or about the shop or other place where any of the articles specified in (1) above are sold by retail, being operations carried on for the purpose of such sale or otherwise in connection with such sale;

(3) operations in connection with the warehousing or storing of any of the articles specified in (1) above for the purpose of the sale thereof by retail or otherwise in connection with such sale, where the warehousing or storing takes place at a warehouse or store carried on in conjunction with one or more shops or other places where the said articles are sold by retail;

(4) operations in connection with the transport of any of the articles specified in (1) above when carried on in conjunction with their sale by retail or with the warehousing or storing operations specified in (3) above; and

(5) clerical or other office work carried on in conjunction with the sale by retail of any of the articles specified in (1) above and relating to such sale or to any of the operations specified in (2) to (4) above.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which has effect from 26th February 1973, sets out the statutory minimum remuneration payable and the holidays to be allowed to workers in substitution for the statutory minimum remuneration and holidays set out in the Wages Regulation (Retail Food) (Scotland) Order 1972 (Order R.F.C.S. (47)) which Order is revoked.

New provisions are printed in italics.

SI 1973/61 W
ISBN 0-11-030061-0

