STATUTORY INSTRUMENTS

1975 No. 1685

WAGES COUNCILS

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

Made - - - -	20*th October* 1975
Coming into Operation	10*th November* 1975

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

2.—(1) In this Order the expression "the specified date" means the 10th November 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) (England and Wales) (No. 2) Order 1974**(d)** and the Wages Regulation (Retail Bread and Flour Confectionery) (England and Wales) (No. 2) Order 1974 (Amendment) Order 1975**(e)** shall cease to have effect.

Signed by order of the Secretary of State.

20th October 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. 1974/1162 (1974 II, p. 4430).
(e) S.I. 1975/255 (1975 I, p. 641).

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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 fixed by the Wages Regulation (Retail Bread and Flour Confectionery) (England and Wales) (No. 2) Order 1974 (hereinafter referred to as "Order B.F.C. (40)"), as amended by the Wages Regulation (Retail Bread and Flour Confectionery) (England and Wales) (No. 2) Order 1974 (Amendment) Order 1975 (hereinafter referred to as "Order B.F.C. (42)").

PART I: STATUTORY MINIMUM REMUNERATION

APPLICATION

1. Subject to the provisions of paragraphs 2, 10, 12 and 17, the minimum remuneration for workers to whom this Schedule applies shall be the remuneration set out in paragraphs 3, 4, 5, 6, 7 and 8.

Any increase in remuneration payable under the provisions of paragraph 5, 6, 7 or 8 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, 5, 6, 7 and 8 relates to a week of 40 hours exclusive of overtime, and, except as provided in paragraph 17, 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 14, be excluded.

MANAGERS AND MANAGERESSES

3. Subject to the provisions of this paragraph, the minimum remuneration for Managers and Manageresses employed in the areas specified in Column 2 of the next following table shall be the amount appearing in the said Column 2 against the amount of weekly trade shown in Column 1 of the said table:—

Column 1	Column 2		
	Per week		
WEEKLY TRADE	London Area	Provincial A Area	Provincial B Area
	£	£	£
Under £160	*28·45*	*27·85*	*27·30*
£160 and under £180	*28·55*	*27·95*	*27·40*
£180 „ „ £200	*28·70*	*28·10*	*27·55*
£200 „ „ £220	*28·80*	*28·20*	*27·65*
£220 „ „ £240	*28·90*	*28·30*	*27·75*
£240 „ „ £260	*29·05*	*28·45*	*27·90*
£260 „ „ £280	*29·15*	*28·55*	*28·00*
£280 „ „ £300	*29·25*	*28·65*	*28·10*
£300 „ „ £320	*29·40*	*28·80*	*28·25*
£320 up to and including £740 ...	The appropriate amount specified in this table for a worker employed at a shop where the weekly trade is £300 and in addition 10p for every complete £20 of weekly trade in excess of that sum		
More than £740	*31·95*	*31·35*	*30·80*

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 period of 26 weeks beginning (*a*) with the fifth week or (*b*) with the 31st week following the accounting date in any year, the weekly trade of a shop shall be 1/52nd of the amount of the total receipts for goods sold at that shop during the 52 weeks immediately preceding the accounting date (in the case of (*a*) hereof) or immediately preceding the 26th week following the accounting date (in the case of (*b*) hereof).

Except as provided as aforesaid, the weekly trade in respect of any week shall be the amount of the total receipts for goods sold at the shop in the preceding week.

In this paragraph the expression "accounting date" means that date in each year on which the books of accounts of a shop are closed for the purpose of preparing the annual accounts in respect of that shop, or, in the absence of any such date, the 5th April in any year.

TEMPORARY MANAGERS AND TEMPORARY MANAGERESSES

4.—(1) Subject to the provisions of this paragraph, the minimum remuneration for Temporary Managers and Temporary Manageresses, for each continuous period of employment as Temporary Manager or Temporary Manageress (reckoned in accordance with the provisions of sub-paragraph (2) of this paragraph), shall be the appropriate minimum remuneration for a Manager or Manageress, as the case may be, under the provisions of paragraph 3.

(2) In reckoning any continuous period of employment as Temporary Manager or Temporary Manageress, for the purposes of this paragraph, no account shall be taken of any—

(*a*) period of employment which does not exceed two consecutive working days in duration; or

(*b*) day of employment on which the Manager or Manageress, as the case may be, is allowed a day of holiday (whether in pursuance of this Schedule or not) other than a day included in a period of employment mentioned in (*a*) of this sub-paragraph:

Provided that the total number of days of which no account shall be taken as aforesaid by virtue of (*b*) of this sub-paragraph shall not exceed 12 in any one calendar year.

(3) The minimum remuneration payable to a Temporary Manager or a Temporary Manageress for any period or day of employment mentioned in (*a*) or (*b*) of sub-paragraph (2) of this paragraph shall be not less than the minimum remuneration appropriate to the worker under paragraph 5.

WORKERS OTHER THAN MANAGERS, MANAGERESSES, TEMPORARY MANAGERS, TEMPORARY MANAGERESSES, ROUNDSWORKERS AND TRANSPORT WORKERS

5.—(1) Subject to the provisions of this Schedule, the minimum remuneration for workers of the classes specified in Column 1 of the next following table employed in the London Area, Provincial A Area or Provincial B Area, as the case may be, shall be the appropriate amount set out in Column 2 of the said table:—

Column 1	Column 2		
	Per week		
(*a*) FIRST ASSISTANTS	The minimum remuneration which would be payable to the worker under (*b*) of this sub-paragraph increased by 25p		
	London Area	Provincial A Area	Provincial B Area
	£	£	£
(*b*) ALL OTHER INDOOR WORKERS			
Aged 20 years or over	*24·85*	*24·25*	*23·55*
,, *19 and under 20 years* ...	*22·35*	*21·85*	*21·20*
,, *18* ,, ,, *19* ,, ...	*21·10*	*20·60*	*20·00*
,, *19* ,, ,, *18* ,, ...	*18·65*	*18·20*	*17·65*
,, *under 17 years*	*16·15*	*15·75*	*15·30*

(2) Notwithstanding the foregoing provisions of this paragraph, the minimum remuneration payable under the provisions of this paragraph during the first six months of employment in the retail bread and flour confectionery trade to a worker who enters, or has entered, that trade for the first time at or over the age of 20 years shall be the appropriate minimum remuneration specified at (*b*) of the foregoing table reduced—

(*a*) during the first three months of the employment by 50p, and

(*b*) during the second three months of the employment by 25p.

ROUNDSWORKERS

6. Subject to the provisions of this Schedule, the minimum remuneration for Roundsworkers employed in the London Area, Provincial A Area or Provincial B Area, as the case may be, shall be the appropriate amount set out in Column 2 of the next following table:—

Column 1	Column 2		
	Per week		
	London Area	Provincial A Area	Provincial B Area
	£	£	£
Workers aged *20* years or over ...	*28·10*	*27·50*	*26·80*
" " 19 and under 20 years	*25·30*	*24·75*	*24·10*
" " 18 " " 19 "	*23·90*	*23·40*	*22·80*
" " 17 " " 18 "	*21·10*	*20·65*	*20·10*
Workers aged under 17 years ...	*18·25*	*17·90*	*17·40*

ASSISTANT ROUNDSWORKERS

7. Subject to the provisions of this Schedule, the minimum remuneration for Assistant Roundsworkers employed in the London Area, Provincial A Area or Provincial B Area, as the case may be, shall be the appropriate amount set out in Column 2 of the next following table:—

Column 1	Column 2		
	Per week		
	London Area	Provincial A Area	Provincial B Area
	£	£	£
Workers aged *20* years or over ...	*26·90*	*26·30*	*25·60*
" " 19 and under 20 years	*24·20*	*23·65*	*23·05*
" " 18 " " 19 "	*22·85*	*22·35*	*21·75*
" " 17 " " 18 "	*20·20*	*19·75*	*19·20*
Workers aged under 17 years ...	*17·50*	*17·10*	*16·65*

TRANSPORT WORKERS

8. Subject to the provisions of this Schedule, the minimum remuneration for Transport Workers employed in the London Area, Provincial A Area or Provincial B Area, as the case may be, shall be the appropriate amount set out in Column 3 of the next following table:—

Column 1	Column 2	Column 3		
		Per week		
Age of Transport Worker	Mechanically propelled vehicle with carrying capacity of	London Area	Provincial A Area	Provincial B Area
		£	£	£
20 years or over ...	Up to and including 5 tons	*29·55*	*28·95*	*28·25*
19 and under 20 years ...		*26·60*	*26·05*	*25·45*
18 „ „ 19 „ ...		*25·10*	*24·60*	*24·00*
under 18 years		*22·15*	*21·70*	*21·20*

WORKERS WHO WORK IN TWO OR MORE AREAS

9. The minimum remuneration applicable to a Roundsworker, Assistant Roundsworker or Transport Worker in any week in which he works in the London Area, Provincial A Area and Provincial B Area or in any two of those areas is the remuneration which would be applicable if the worker worked solely at the bakery or depot from which he operates.

NIGHT WORK

10. For any time worked between 8 p.m. and 6 a.m. a worker shall be paid, in addition to the minimum remuneration to which he is entitled under the other provisions of this Schedule, 10p for each hour (or part of an hour) so worked.

ADDITIONAL REMUNERATION FOR HOURS WORKED ON A SATURDAY

11.—(1) Where a full-time worker:

(*a*) normally works on not less than six days in a week, or

(*b*) normally works on not less than five days in a week on a rota system which involves regular Saturday working,

he shall be paid, in addition to the minimum remuneration payable under the provisions of paragraph 3, 4, 5, 6, 7 or 8 of this Schedule, for each hour worked on a Saturday for which no minimum overtime rate is payable under the provisions of paragraph 12 of this Schedule, an amount calculated in accordance with the provisions of sub-paragraph (2) of this paragraph.

(2) The additional amount payable under the provisions of sub-paragraph (1) of this paragraph shall be an amount equal to one-fifth of the hourly rate payable to the worker, such hourly rate to be obtained by dividing by 40 the minimum weekly remuneration payable to the worker under the provisions of paragraph 3, 4, 5, 6, 7 or 8 as the case may be.

(3) Where it is or becomes the practice in a Jewish undertaking for the employer to require the worker's attendance on Sunday instead of Saturday, the provisions of this paragraph shall apply as if in such provisions the word "Sunday" were substituted for "Saturday" except where such substitution is unlawful.

MINIMUM OVERTIME RATES

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

(1) To any worker for work on a Sunday—

(*a*) where time worked does not exceed 4½ hours ... double time for 4½ hours

(*b*) where time worked exceeds 4½ hours but does not exceed 8 hours ... ... double time for 8 hours

(*c*) where time worked exceeds 8 hours—for all time worked ... ... double time

(2) To any worker other than a roundsworker, assistant roundsworker or a transport worker—

(*a*) on the weekly short day in any week during which, under sub-section (3) of section 40 of the Shops Act 1950**(a)**, (suspension of weekly half-holiday in holiday resorts) the employer is relieved of his obligation to allow the worker a weekly half-holiday—

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

(*b*) on the weekly short day (not being a weekly short day to which (*a*) of this sub-paragraph applies)—

for all time worked after 1.30 p.m. ... ... time-and-a-half

(*c*) on any day other than a weekly short day, a Sunday or a customary holiday—

(i) for the first 4 hours worked in excess of 9 ... time-and-a-quarter

(ii) thereafter ... ... time-and-a-half

Provided that where the employer normally requires the worker's attendance on five days only in the week the said minimum overtime rates of time-and-a-quarter and time-and-a-half shall be payable after 9½ hours' and 13½ hours' work respectively;

(*d*) in any week exclusive of any time worked on a customary holiday and of any time for which a minimum overtime rate is payable under the other provisions of this paragraph—

(i) for the first 4 hours worked in excess of 40 ... time-and-a-quarter

(ii) thereafter ... ... time-and-a-half

(3) To a roundsworker or an assistant roundsworker in any week exclusive of any time worked on a Sunday or a customary holiday—

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

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

(4) To a transport worker in any week exclusive of any time worked on a Sunday or a customary holiday whichever of the following amounts is the greater:—

(*a*) for all time worked in excess of 8 hours on any day on five days in the week and in excess of 10 hours on one day to be specified by the employer or where none is specified the last day of the week—

(i) for the first 4 hours so worked ... ... time-and-a-quarter

(ii) thereafter ... ... time-and-a-half

or (*b*) for all time worked in excess of 40 hours—

(i) for the first 4 hours ... ... time-and-a-quarter

(ii) thereafter ... ... time-and-a-half

Provided that—

(i) overtime rates under this paragraph shall be payable to a manager or manageress only if the overtime worked is specifically authorised by the employer or his representative;

(a) 1950 c. 28.

(ii) where a worker is employed in a shop which is registered under section 53 of the Shops Act 1950 (which relates to persons observing the Jewish Sabbath), the provisions of this paragraph shall apply as if for the word "Sunday" there were substituted the word "Saturday";

(iii) in any week which includes one customary holiday, "33 hours" shall be substituted for "40 hours" where it occurs in the foregoing provisions of this paragraph and in any week which includes two customary holidays, "26 hours" shall be substituted for the said "40 hours" and in any week which includes three customary holidays "19 hours" shall be substituted for the said "40 hours".

BENEFITS OR ADVANTAGES

13.—(1) The benefits or advantages set out in this sub-paragraph being benefits or advantages provided, in pursuance of the terms and conditions of the employment of a worker to whom this Schedule applies, by the employer or by some other person under arrangements with the employer, are authorised to be reckoned as payment of wages by the employer in lieu of payment in cash in the following manner:—

(*a*) Dinner of good and sufficient quality and quantity provided on each day on which the worker normally works in the week, other than the weekly short day, as an amount of 50p per week.

(*b*) Tea of good and sufficient quality and quantity provided on each day on which the worker normally works in the week, other than the weekly short day, as an amount of 20p per week.

(2) Nothing in this paragraph shall be construed as authorising the making of any deduction or the giving of remuneration in any manner which is illegal by virtue of the Truck Acts 1831 to 1940**(a)**, or of any other enactment.

WAITING TIME

14. 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 and he is not waiting for work to be given to him to perform.

WORKERS WHO ARE REQUIRED TO WORK ON A CUSTOMARY HOLIDAY

15.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, where a worker is required to work 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—

(*a*) where time worked does not exceed 4½ hours ...	time-and-a-half for 4½ hours
(*b*) where time worked exceeds 4½ hours but does not exceed 8 hours	time-and-a-half for 8 hours
(*c*) where time worked exceeds 8 hours— for all time worked	time-and-a-half

(a) 1831 c. 37; 1887 c. 46; 1896 c. 44; 1940 c. 38.

(2) Where the customary holiday on which a worker is required to work is a day fixed by the employer, being a day on which the worker would normally work during the period commencing on 24th December and ending on the next following 25th January, the worker shall not be entitled to the additional payment under this paragraph unless—

(*a*) he normally works for the employer for more than nine hours in a week; and

(*b*) he has been in the employment of the employer throughout the period of four weeks ending on 23rd December immediately preceding the customary holiday.

WORKERS WHO ARE NOT REQUIRED TO WORK ON A CUSTOMARY HOLIDAY

16.—(1) Subject to the provisions of sub-paragraph (2) and sub-paragraph (3) of this paragraph, a worker who is not required to work on a customary holiday shall be paid for that holiday the amount to which he would have been entitled under the foregoing 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:

Provided that where, in the case of a worker who normally works for the employer on six days in the week, a customary holiday falls on his weekly short day, the worker shall be paid, in addition to any amount to which he is entitled under this paragraph, an amount equal to the statutory minimum remuneration to which he would be entitled for 4 hours' work, unless he has not been employed after 1.30 p.m. on another week day in the week in which the customary holiday occurs or in the week next following that week on a day other than his weekly short day being in neither case a day of customary holiday or a day of annual holiday.

(2) A worker shall not be entitled to any payment under this paragraph unless he—

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

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

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

(3) A worker shall not be entitled to any payment under this paragraph in respect of a customary holiday which is a day fixed by the employer, being a day on which the worker would normally work during the period commencing on 24th December and ending on the next following 15th January unless—

(*a*) he is a worker who normally works for the employer for more than nine hours in a week; and

(*b*) he has been in the employment of the employer throughout the period of four weeks ending on 23rd December immediately preceding the customary holiday.

GUARANTEED WEEKLY REMUNERATION PAYABLE TO A FULL-TIME WORKER

17.—(1) Notwithstanding the other provisions of this Schedule, where in any week the total remuneration (including holiday remuneration but excluding the amount specified in sub-paragraph (2) of this paragraph) 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 with the addition of any amount which may be payable in respect of remuneration excluded from the total remuneration referred to in this sub-paragraph.

(2) The amount to be excluded from the total remuneration referred to in the foregoing sub-paragraph is the whole of the remuneration payable in respect of overtime

for work on a Sunday or on the weekly short day, one half of the remuneration payable in respect of work on a customary holiday and the remuneration payable under paragraph 11 of this Schedule.

(3) The guaranteed weekly remuneration payable in respect of any week to a full-time worker is the remuneration to which he would be entitled under paragraph 3, 4, 5, 6, 7 or 8 for 40 hours' work in his normal occupation:

Provided that—

(*a*) 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;

(*b*) where in any week a worker at his request and with the 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 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.

(4) Guaranteed weekly remuneration is not payable in respect of any week unless 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 the second proviso to sub-paragraph (3) of this paragraph) is

(*a*) capable of and available for work; and

(*b*) willing to perform such duties outside his normal occupation as the employer may reasonably require if his normal work is not available in the establishment in which he is employed.

(5) Guaranteed weekly remuneration is not payable in respect of any week if the worker's employment is terminated before the end of that week.

(6) If the employer is unable to provide the worker with work by reason of a strike or other circumstances beyond his control and gives the worker four clear days' notice to that effect, guaranteed weekly remuneration shall not be payable after the expiry of such notice in respect of any week during which or during part of which the employer continues to be unable to provide work as aforesaid:

Provided that in respect of the week in which the said notice expires there shall be paid to the worker, in addition to any remuneration payable in respect of time worked in that week, any remuneration that would have been payable if the worker had worked his normal hours of work on every day in the week prior to the expiry of the notice.

PART II: ANNUAL HOLIDAY AND HOLIDAY REMUNERATION

ANNUAL HOLIDAY

18.—(1) Subject to the provisions of paragraph 19, an employer shall, between the 6th April 1976 and 31st October 1976 and in each succeeding year between 6th 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 24) set out in the first column of 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 for workers with a normal working week of			
	Six days	Five days	Four days	Three days or less
12 months	20 days	17 days	13 days	10 days
At least 11 months	17 „	14 „	11 „	8 „
„ „ 10 „	16 „	13 „	10 „	7 „
„ „ 9 „	14 „	12 „	9 „	6 „
„ „ 8 „	13 „	11 „	8 „	6 „
„ „ 7 „	11 „	9 „	7 „	5 „
„ „ 6 „	10 „	8 „	6 „	4 „
„ „ 5 „	7 „	6 „	5 „	3 „
„ „ 4 „	6 „	5 „	4 „	3 „
„ „ 3 „	4 „	3 „	3 „	2 „
„ „ 2 „	3 „	2 „	2 „	1 day
„ „ 1 month	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 6th 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 the commencement of the next following holiday season, then any day or days of annual holiday so allowed shall for the purposes of this Schedule be treated as having been allowed during the holiday season;

(*c*) where a worker has, on 1st August in any year, been in the employment of the employer for not less than six months, the duration of his annual holiday in that year shall be not less than the number of days constituting his normal working week.

(3) In this Schedule the expression "holiday season" means in relation to the year 1976 the period between 6th April 1976 and 31st October 1976 and, in each succeeding year, the period between 6th April and 31st October of the same year.

19.—(1) Subject to the provsions 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, but does not exceed twice that number, the holiday may by agreement between the employer and 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.

(3) 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 but does not exceed three times that number the holiday may be allowed as follows:—

(*a*) 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;

(*b*) as to any additional days, on consecutive working days to be fixed by the employer, either during the holiday season or before the beginning of the next following holiday season.

(4) Where the number of days of annual holiday for which a worker has qualified exceeds three times the number of days constituting his normal working week the holiday may be allowed as follows:

(*a*) 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;

(*b*) as to a further period comprising the number of days constituting the worker's normal working week, on consecutive working days to be fixed by the employer, either during the holiday season or before the beginning of the next following holiday season;

(*c*) as to any additional days, on working days which need not be consecutive, to be fixed by the employer, either during the holiday season or before the beginning of the next following holiday season.

(5) 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.

(6) 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.

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

(8) 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.

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

HOLIDAY REMUNERATION

21.—(1) Subject to the provisions of paragraph 22, 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.

22. Where any accrued holiday remuneration has been paid by the employer to the worker (in accordance with paragraph 23 of this Schedule or with Order B.F.C. (40)), as amended, in respect of employment during the periods referred to in paragraph 23, the amount of holiday remuneration payable by the employer in respect of any annual holiday for which the worker has qualified by reason of employment during the said period shall be reduced by the amount of the said accrued holiday remuneration unless that remuneration has been deducted from a previous payment of holiday remuneration made under the provisions of this Schedule or of Order B.F.C. (40), as amended.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

23. 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 (hereafter in this Schedule referred to as "the termination date"), pay to the worker as accrued holiday remuneration:—

(1) in respect of employment in the 12 months up to and including 5th 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 5th 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 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—

(i) has at his written request been allowed any day or days of holiday for which he has 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; or

(ii) has been allowed an annual holiday in accordance with (*c*) of sub-paragraph (2) of paragraph 18 of this Schedule or Order B.F.C. (40), as amended, any accrued holiday remuneration payable as aforesaid may be reduced by one day's holiday pay in respect of each day by which the said holiday exceeded the number of days of annual holiday to which he would have been entitled under the provisions of sub-paragraph (1) of the said paragraph 18 or Order B.F.C. (40), as amended;

(*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 employ-

ment without having given such notice or 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—

(i) in the case of a worker who left without giving notice, equal to the statutory minimum remuneration which would be payable to him at the termination date for one week's work if working his normal working week and the normal number of daily hours worked by him; and

(ii) in the case of a worker who left without working the full period of his week's notice, equal to one day's holiday pay for each day during the said period on which he failed to work.

CALCULATION OF EMPLOYMENT

24. 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 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

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

"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.

"CLEANER" means a worker engaged wholly or mainly in cleaning premises.

"CUSTOMARY HOLIDAY" means—

(1) Christmas Day; 26th December if it be not a Sunday, 27th December in a year when 25th or 26th December is a Sunday; New Year's Day if it be not a Sunday, or, if it be a Sunday, 2nd January; Good Friday; Easter Monday; the last Monday in May; the last Monday in August, (or, where a day is substituted for any of the above days by national proclamation, that day) and any day proclaimed as an additional Bank Holiday or a general holiday; or, in the case of each of the said days, such week day (other than a weekly short day) as may be substituted therefor, being a day—

(*a*) on which the worker normally works for the employer, and

(*b*) which is by local custom recognised as a day of holiday; and

(2) one other day, being a day on which the worker would normally work during the period commencing on 24th December and ending on the next following 15th January, to be fixed by the employer and notified to the worker not less than three weeks before the holiday, or when the employer does not fix such a day, on the first working day on which the worker would normally work occurring after 15th January.

"FIRST ASSISTANT" means—

(1) in a shop where a manager or manageress and not less than five other workers (excluding part-time workers employed as cleaners) are employed, such one of those other workers as may be designated by the employer as "first assistant" for the purposes of this Schedule or, if no worker is so designated, the worker who has been longest employed in the shop;

(2) in a shop where no manager or manageress is employed—

(*a*) where two or more workers (excluding part-time workers employed as

cleaners) are employed, such one of those workers as may be designated by the employer as "first assistant" for the purposes of this Schedule or, if no worker is so designated, the worker who has been longest employed in the shop;

(*b*) where only one worker is employed, that worker;

provided that a worker shall not be deemed to be a first assistant by virtue of (2) of this definition, except during a period when the employer is absent from the shop and the period of absence is of not less than one day's duration.

"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.

"LONDON AREA", "PROVINCIAL A AREA" and "PROVINCIAL B AREA" have the meanings respectively assigned to them in paragraph 26.

"MANAGER", "MANAGERESS" means a worker who is employed at, and is normally immediately in charge of the operation of, a shop and who has immediate control of—

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

(2) two or more part-time workers (excluding part-time workers employed as cleaners);

and for the purpose of this definition a worker shall not be deemed not to be immediately in charge of the operation of a shop by reason only of being subject to the supervision of the employer or some person acting on his behalf, being in either case a person who is not normally, during the hours when the shop is open to the public, wholly or mainly engaged in work at the shop.

"MONTH" means the period commencing on a date of any number in one month and ending on the day before the date of the same number in the next month or, if the commencing date is the 29th, 30th or 31st day of a month and there is no date of the same number in the next month, then on the last day of that month.

"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 23 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 the appropriate proportion of the remuneration which the worker would be entitled to receive from his employer at the date of the annual holiday (or, where the holiday is taken in more than one period, at the date of the first period) or at the termination date, as the case may be, for one week's work, if working his normal working week and the number of daily hours normally worked by him (exclusive of overtime), and if paid at the appropriate rate of statutory minimum remuneration for work for which statutory minimum remuneration is payable and at the same rate for any work for the same employer for which such remuneration is not payable, and in this definition "appropriate proportion" means—

where the worker's normal working week is six days	... ...	one-sixth
" " " " " " five "	... ...	one-fifth
" " " " " " four "	... ...	one-quarter
" " " " " " three "	... ...	one-third
" " " " " " two "	... ...	one-half
" " " " " " one day	... ...	the whole.

"ROUNDSWORKER" means a worker wholly or mainly employed as a salesman on a definite or established route and responsible for keeping account of retail sales to customers and of any cash or tokens received in payment and who is not accompanied, save in exceptional circumstances, by any other person who exercises control or supervision.

"ROUNDSWORKER, ASSISTANT" means a worker wholly or mainly employed in assisting any person carrying out the duties normally performed by a roundsworker, whether or not such person is a roundsworker as defined in this Schedule.

"TEMPORARY MANAGER", "TEMPORARY MANAGERESS", means a worker who, in the absence of the Manager or Manageress, as the case may be, is employed at and is temporarily immediately in charge of the operation of a shop, whilst the worker is so in charge; and for the purpose of this definition a worker shall not be deemed not to be immediately in charge of the operation of a shop by reason only of being subject to the supervision of the employer or some person acting on his behalf, being in either case a person who is not normally, during the hours when the shop is open to the public, wholly or mainly engaged in work at the shop.

"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 obtained by dividing by 40 the minimum weekly remuneration to which the worker is entitled under the provisions of paragraph 3, 4, 5, 6, 7 or 8.

"TRANSPORT WORKER" means a worker (other than a roundsworker or assistant roundsworker) engaged wholly or mainly in driving a mechancially propelled road vehicle for the transport of goods and on work in connection with the vehicle and its load (if any) while on the road.

"WEEK" means "pay week".

"WEEKLY SHORT DAY" means that day in any week on which the 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 or, where there is no such day, a working day in the week fixed by the employer and notified to the worker not later than the Saturday preceding the week during which it is to have effect or, failing such notification, the last working day in the week.

AREAS

26. In this Schedule—

(1) "LONDON AREA" means the Metropolitan Police District, as defined in the London Government Act 1963(a), the City of London, the Inner Temple and the Middle Temple;

(2) "PROVINCIAL B AREA" comprises all areas other than those specified in sub-paragraphs (1) and (3) of this paragraph;

(3) "PROVINCIAL A AREA" comprises—

(*a*) all areas other than the London Area which according to the Registrar General's Preliminary Report on the Census of England and Wales 1961, were administered by County Borough, Municipal Borough or Urban District Councils and which had a population of ten thousand or more, and,

(*b*) the areas administered by the following Municipal Boroughs and Urban District Councils:—

BEDFORDSHIRE—
Biggleswade
Kempston

BRECONSHIRE—
Brecknock
Brynmawr

BUCKINGHAMSHIRE—
Eton

CAERNARVONSHIRE—
Caernarvon

CARMARTHENSHIRE—
Ammanford
Burry Port

(a) 1963 c. 33.

CHESHIRE—
Alderley Edge
Bollington
Bowdon
Knutsford
Lymm
Middlewich
Sandbach

CORNWALL—
St. Ives
Saltash

CUMBERLAND—
Cockermouth
Keswick

DENBIGHSHIRE—
Abergele
Denbigh

DERBYSHIRE—
Ashbourne
Clay Cross
New Mills

DEVON—
Dawlish
Ilfracombe

DORSET—
Bridport
Swanage

ELY, ISLE OF—
Ely
Whittlesey

ESSEX—
Epping
Frinton and Walton
Halstead
Witham

FLINTSHIRE—
Connah's Quay
Holywell

GLOUCESTERSHIRE—
Charlton Kings

GLAMORGAN—
Glyncorrwg

HAMPSHIRE—
Alton
Fleet
Petersfield
Romsey

HEREFORDSHIRE
Leominster
Ross-on-Wye

HERTFORDSHIRE—
Tring
Ware

KENT—
Southborough
Swanscombe

LANCASHIRE—
Abram
Adlington
Aspull
Barrowford
Billinge-and-Winstanley
Blackrod
Brierfield
Church
Clayton-le-Moors
Kirkham
Lees
Little Lever
Longridge
Milnrow
Mossley
Padiham
Preesall
Rainford
Rishton
Skelmersdale
Standish-with-Langtree
Tottington
Trawden
Up Holland
Wardle
Whitworth
Withnell

LEICESTERSHIRE—
Ashby de la Zouch
Ashby Woulds
Shepshed

LINCOLNSHIRE—
Sleaford

MERIONETHSHIRE—
Ffestiniog

MONMOUTHSHIRE—
Abergavenny
Blaenavon
Monmouth
Rhymney

NORFOLK—
East Dereham

NORTHAMPTON-
SHIRE—
Daventry
Desborough
Irthlingborough
Raunds
Rothwell

NORTHUMBER-
LAND—
Hexham
Prudhoe

OXFORDSHIRE—
Henley-on-Thames
Witney

PEMBROKESHIRE—
Haverfordwest

SHROPSHIRE—
Bridgnorth
Dawley
Ludlow
Whitchurch

SOMERSET—
Burnham-on-Sea
Minehead
Wells

STAFFORDSHIRE—
Amblecote
Stone
Uttoxeter

SUSSEX—
Newhaven

WESTMORLAND—
Windermere

WIGHT, ISLE OF—
Ventnor

WILTSHIRE—
Devizes
Warminster

YORKSHIRE—
Cudworth
Darfield
Denby Dale
Denholme
Dodworth
Driffield
Earby
Filey
Hebden Royd
Heckmondwike
Horbury
Knaresborough
Loftus
Meltham
Northallerton
Penistone
Queensbury and Shelf
Ripponden
Royston
Scalby
Selby
Silsden

(4) Any reference in this paragraph to a local government area shall be construed as a reference to that area as it was on 23rd April 1961, unless otherwise stated.

WORKERS TO WHOM THIS SCHEDULE APPLIES

27.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, the workers to whom this Schedule applies are all workers employed in England and Wales 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 any 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 (England and Wales);

(*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 engaged in the sale and distribution of bread and flour confectionery who in the same week are also engaged in the making of those articles of food and work incidental thereto, or are engaged in the making of other articles of food and work incidental thereto in an undertaking, or branch or department thereof, mainly engaged in the making of bread and flour confectionery;

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

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

(vi) 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 10th November 1975, sets out the increased statutory minimum remuneration payable and the holidays to be allowed to workers in relation to whom the Retail Bread and Flour Confectionery Trade Wages Council (England and Wales) operates in substitution for the statutory minimum remuneration and holidays fixed by the Wages Regulation (Retail Bread and Flour Confectionery) (England and Wales) (No. 2) Order 1974 (Order B.F.C. (40)) as amended by the Wages Regulation (Retail Bread and Flour Confectionery) (England and Wales) (No. 2) Order 1974 (Amendment) Order 1975 (Order B.F.C. (42)). Order B.F.C. (40) and Order B.F.C. (42) are revoked.

New provisions are printed in italics.

SI 1975/1685
ISBN 0-11-051685-0

