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STATUTORY INSTRUMENTS

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**1977 No. 1322**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Guarantee Payments (Exemption) (No. 8) Order 1977**

*Made* - - - - *30th July 1977*

*Coming into Operation* *5th September 1977*

Whereas the four Agreements between the Smiths Food Group (a division of Toms Foods Ltd.) and the Transport and General Workers' Union relating respectively to the division's establishments at—

19 Copse Road, Fleetwood;

Caistor Road, Great Yarmouth;

224 Southampton Road, Paulsgrove, Portsmouth;

Stockport Road, Cheadle Health, Stockport

are collective agreements each of which makes provision whereby employees to whom the said agreement relates have a right to guaranteed remuneration:

And whereas the parties to each of the said collective agreements (whose descriptions are set out in Schedule 1 to this Order) have all made application to the Secretary of State under section 28(1) of the Employment Protection Act 1975 (“the Act”):

And whereas the Secretary of State having regard to the provisions of each of the agreements (which so far as are material are set out in Schedule 2 to this Order) is satisfied that section 22 of the Act should not apply to those employees:

And whereas each of the said agreements complies with section 28(4) of the Act:

Now, therefore, the Secretary of State in exercise of the powers conferred on him as the appropriate Minister under section 28(1) of the Act and of all other powers enabling him in that behalf, hereby makes the following order:—

**Citation and commencement**

1. This Order may be cited as the Guarantee Payments (Exemption) (No. 8) Order 1977 and shall come into operation on 5th September 1977.

**Interpretation**

2.—(1) The Interpretation Act 1889 shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) The “exempted agreements” are the agreements referred to in the preamble above.

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### **Exemption**

**3.** Section 22 of the Act shall not apply to any person who is an employee to whom an exempted agreement relates.

Signed by order of the Secretary of State. 30th July 1977.

*Harold Walker*  
Minister of State  
Department of Employment

## SCHEDULE 1

### PARTIES TO THE COLLECTIVE AGREEMENTS

#### **Representing Employers**

1. the Smiths Food Group, a division of Toms Foods Ltd., a subsidiary of General Mills Inc. (USA).

#### **Representing Employees**

2. the Transport and General Workers' Union.

## SCHEDULE 2

### MATERIAL PROVISIONS OF EXEMPTED AGREEMENTS

#### A

#### THE FLEETWOOD AGREEMENT

#### SHORT TIME WORKING AGREEMENT

##### *STAGE 1*

The Company will seek to avoid lay off, short time working or redundancy by allowing normal wastage to reduce production capacity.

The Company will inform the stewards at an establishment where this “run down” is taking place and will provide them with such information as to anticipated time scale and size of run down as is reasonable in the circumstances.

The Company will expect the remaining employees to work flexibly so as to maintain a balanced work force. When this results in an employee being required to accept work of a lower grade (e.g. machine minder to work as a packer) the higher rate of pay will be maintained for up to six weeks and thereafter will be reduced to that appropriate to the lower grade. Selection of people for work at a lower grade will be on a basis of length of service in the higher grade.

##### *STAGE 2*

Should reduction in production capacity effected by Stage 1 be insufficient to meet the reduced production requirement, the Company will give notice of its intention to work a short week or operate a lay off. Selection for lay off being on a basis of length of service whilst maintaining a balanced workforce. Consideration being given to short time or lay off of part time employees before full time employees are affected.

To protect the earnings of employees affected by this stage the Company will pay a basic day's wages for up to a total of five days of short time or lay off cumulative in any calendar quarter (1st January to 31st March, 1st April to 30th June, 1st July to 30th September, 1st October to 31st December). Before implementing short time working or lay off at an establishment the Company will discuss the matter with the shop stewards at least one week before it is intended to operate the short week or lay off.

##### *QUALIFICATIONS FOR AND CALCULATION OF PAYMENT UNDER STAGE 2*

Payment in respect of short time, that is to say where a short working week of less than five days is to be operated, or lay off, that is to say when employees are laid off for a period in excess of five consecutive days' duration will be made to employees who would normally have been at work on

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the day or days in question provided that the employee has a minimum of four weeks' service at the time of the start of the period of short time working or lay off.

No payment will be due to an employee who refuses reasonable alternative work within their competence for the day or days in question, selection for alternative work being at the discretion of management.

Any person absent from the establishment during a period of short time working or lay off due to certified sickness, holiday or prior permission without pay shall be excluded from benefit under this agreement.

No payment will be due if the short time or lay off results from industrial Action at any of the Group's establishments. A basic day's wages shall be eight hours wages inclusive of any shift premium. The wage rate being that which would have been paid had the employee been at work. In the case of part time employees working less than a normal eight hour shift a day's work shall be the hours that they are normally contracted to work on that day.

#### *APPEAL*

Any employee who feels that he/she has been treated unfairly under the terms of this agreement shall have the right of appeal in accordance with the Company's grievance procedure. In addition, the employee has, in every case, the right to present a case to an industrial tribunal that the Company has failed to make a payment, or part of a payment, to which the employee is entitled under this agreement.

## **B**

### **THE GREAT YARMOUTH AGREEMENT**

#### **SHORT TIME WORKING AGREEMENT**

##### *STAGE 1*

The Company will seek to avoid lay off, short time working or redundancy by allowing normal wastage to reduce production capacity.

The Company will inform the stewards at an establishment where this "run down" is taking place and will provide them with such information as to anticipated time scale and size of run down as is reasonable in the circumstances.

The Company will expect the remaining employees to work flexibly so as to maintain a balanced work force. When this results in an employee being required to accept work of a lower grade (e.g. machine minder to work as a packer) the higher rate of pay will be maintained for up to six weeks and thereafter will be reduced to that appropriate to the lower grade. Selection of people for work at a lower grade will be on a basis of length of service in the higher grade.

##### *STAGE 2*

Should reduction in production capacity effected by stage 1 be insufficient to meet the reduced production requirement, the Company will give notice of its intention to work a short week or operate a lay off. Selection for lay off being on a basis of length of service whilst maintaining a balanced workforce.

To protect the earnings of employees affected by this stage the Company will pay a basic day's wages for up to a total of five days of short time or lay off cumulative in any calendar quarter (1st January to 31st March, 1st April to 30th June, 1st July to 30th September, 1st October to 31st December). Before implementing short time working or lay off at Gt. Yarmouth the Company will discuss the matter with the shop stewards at least one week before it is intended to operate the short week or lay off.

#### *QUALIFICATIONS FOR AND CALCULATION OF PAYMENT UNDER STAGE 2*

Payment in respect of short time, that is to say where a short working week of less than five days is to be operated, or lay off, that is to say when employees are laid off for a period in excess of five consecutive days' duration will be made to employees who would normally have been at work on the day or days in question provided that the employee has a minimum of four weeks' service at the time of the start of the period of short time working or lay off.

No payment will be due to an employee who refuses reasonable alternative work within their competence for the day or days in question, selection for alternative work being at the discretion of management.

Any person absent from the establishment during a period of short time working or lay off due to certified sickness, holiday or prior permission without pay shall be excluded from benefit under this agreement.

No payment will be due if the short time or lay off results from Industrial Action at any of the Group's establishments. A basic day's wages shall be eight hours wages inclusive of any shift premium. The wage rate being that which would have been paid had the employee been at work. In the case of part time employees working less than a normal eight hour shift a day's work shall be the hours that they are normally contracted to work on that day.

#### *APPEAL*

Any employee who feels that he/she has been treated unfairly under the terms of this agreement shall have the right of appeal in accordance with the Company's grievance procedure. In addition, the employee has, in every case, the right to present a case to an industrial tribunal that the Company has failed to make a payment, or part of a payment, to which the employee is entitled under this agreement.

## C

### THE PAULSGROVE AGREEMENT

#### SHORT TIME WORKING AGREEMENT

##### *STAGE 1*

The Company will seek to avoid lay off, short time working or redundancy by allowing normal wastage to reduce production capacity.

The Company will inform the stewards at an establishment where this "run down" is taking place and will provide them with such information as to anticipated time scale and size of run down as is reasonable in the circumstances.

The Company will expect the remaining employees to work flexibly so as to maintain a balanced work force. When this results in an employee being required to accept work of a lower grade (e.g. machine minder to work as a packer) the higher rate of pay will be maintained for up to six weeks and thereafter will be reduced to that appropriate to the lower grade. Selection of people for work at a lower grade will be on a basis of length of service in the higher grade.

##### *STAGE 2*

Should the policy of "run down" be inadequate to meet the reduced production requirements the Company will reduce the working, week, or lay off, all or part of the part time labour force in the latter case selection will be on the basis of length of service.

The shop stewards being kept fully informed of the situation prior to any action being taken to implement cuts in accordance with this stage.

##### *STAGE 3*

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Should reduction in production capacity effected by stages 1 and 2 be insufficient to meet the reduced production requirement, the Company will give notice of its intention to work a short week or operate a lay off of its full time permanent employees.

To protect the earnings of employees affected by either stages 2 or 3 the Company will pay a basic day's wages for up to a total of five days of short time or lay off cumulative in any calendar quarter (1st January to 31st March, 1st April to 30th June, 1st July to 30th September, 1st October to 31st December). Before implementing short time working or lay off at any establishment the Company will discuss the matter with the shop stewards at least one week before it is intended to operate the short week or lay off.

#### *QUALIFICATIONS FOR AND CALCULATION OF PAYMENT UNDER STAGES 2 AND 3*

Payment in respect of short time, that is to say where a short working week of less than five days is to be operated, or lay off, that is to say when employees are laid off for a period in excess of five consecutive days' duration will be made to employees who would normally have been at work on the day or days in question provided that the employee has a minimum of four weeks' service at the time of the start of the period of short time working or lay off.

No payment will be due to an employee who refuses reasonable alternative work within their competence for the day or days in question, selection for alternative work being at the discretion of management.

Any person absent from the establishment during a period of short time working or lay off due to certified sickness, holiday or prior permission without pay shall be excluded from benefit under this agreement.

No payment will be due if the short time or lay off results from Industrial Action at any of the Group's establishments. A basic day's wages shall be eight hours wages inclusive of any shift premium. The wage rate being that which would have been paid had the employee been at work. In the case of part time employees working less than a normal eight hour shift a day's work shall be the hours that they are normally contracted to work on that day.

#### *APPEAL*

Any employee who feels that he/she has been treated unfairly under the terms of this agreement shall have the right of appeal in accordance with the Company's grievance procedure. In addition, the employee has, in every case, the right to present a case to an industrial tribunal that the Company has failed to make a payment, or part of a payment, to which the employee is entitled under this agreement.

## D

### THE STOCKPORT AGREEMENT

#### SHORT TIME WORKING AGREEMENT

##### *STAGE 1*

The Company will seek to avoid lay off, short time working or redundancy by allowing normal wastage to reduce production capacity.

The Company will inform the stewards at an establishment where this "run down" is taking place and will provide them with such information as to anticipated time scale and size of run down as is reasonable in the circumstances.

The Company will expect the remaining employees to work flexibly so as to maintain a balanced work force. When this results in an employee being required to accept work of a lower grade (e.g. machine minder to work as a packer) the higher rate of pay will be maintained for up to six weeks

and thereafter will be reduced to that appropriate to the lower grade. Selection of people for work at a lower grade will be on a basis of length of service in the higher grade.

#### *STAGE 2*

Should reduction in production capacity effected by stage 1 be insufficient to meet the reduced production requirement, the Company will give notice of its intention to work a short week or operate a lay off. Selection for lay off being on a basis of length of service whilst maintaining a balanced workforce.

To protect the earnings of employees affected by this stage the Company will pay a basic day's wages for up to a total of five days of short time or lay off cumulative in any calendar quarter (1st January to 31st March, 1st April to 30th June, 1st July to 30th September, 1st October to 31st December). Before implementing short time working or lay off at an establishment the Company will discuss the matter with the shop stewards at least one week before it is intended to operate the short week or lay off.

#### *QUALIFICATIONS FOR AND CALCULATION OF PAYMENT UNDER STAGE 2*

Payment in respect of short time, that is to say where a short working week of less than five days is to be operated, or lay off, that is to say when employees are laid off for a period in excess of five consecutive days' duration will be made to employees who would normally have been at work on the day or days in question provided that the employee has a minimum of four weeks' service at the time of the start of the period of short time working or lay off.

No payment will be due to an employee who refuses reasonable alternative work within their competence for the day or days in question, selection for alternative work being at the discretion of management.

Any person absent from the establishment during a period of short time working or lay off due to certified sickness, holiday or prior permission without pay shall be excluded from benefit under this agreement.

No payment will be due if the short time or lay off results from Industrial Action at any of the Group's establishments. A basic day's wages shall be eight hours wages inclusive of any shift premium. The wage rate being that which would have been paid had the employee been at work. In the case of part time employees working less than a normal eight hour shift a day's work shall be the hours that they are normally contracted to work on that day.

#### *APPEAL*

Any employee who feels that he/she has been treated unfairly under the terms of this agreement shall have the right of appeal in accordance with the Company's grievance procedure. In addition, the employee has, in every case, the right to present a case to an industrial tribunal that the Company has failed to make a payment, or part of a payment, to which the employee is entitled under this agreement.

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### **EXPLANATORY NOTE**

This Order excludes from the operation of section 22 of the Employment Protection Act 1975 employees at four establishments of the Smiths Foods Group (a division of Toms Foods Ltd.) being employees to whom collective agreements with the Transport and General Workers' Union relate.

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Copies of the Agreements are available for inspection between 10.0 a.m. and noon and between 2 p.m. and 5 p.m. (Monday to Friday) at the offices of the Department of Employment, 8 St. James's Square, London SW1Y 4JB.