

Order, 1928; it must, however, be understood that an authoritative interpretation of the Trade Boards Acts and of Orders made thereunder can be given only in the Courts of Law. The Minister's responsibility is confined to securing compliance with the Trade Boards Acts in cases in which he is advised that the Acts have not been complied with.

General Effect of Amendment of Order.

2. *General.*—The Milk Distributive Order of 1928 which amends the Milk Distributive Orders of 1920 and 1926, makes no substantial change in the kind of establishment included within the scope of the Milk Distributive trade, but lays down a definition of that trade which is clearer than the definition contained in the earlier Orders. Experience has shown that the trade impinges on other trades or branches of trades which, though they were not intended to be covered by the original Order, were nevertheless not excluded with sufficient precision. In particular the words used in the first paragraph of the Order of 1920 have given rise to difficulties of interpretation.

3. *Inclusions.*—The first paragraph of the Amending Order brings in without qualification all the wholesale and retail sale of milk, together with the sale of other goods by workers mainly employed upon the sale of milk (Section 1 (i) and (ii)). It also includes all work incidental to the sale of milk (Section 1 (iii)).

4. *Incidental Operations.*—Paragraph 2 enumerates the principal types of work which are incidental to the sales mentioned in paragraph 1 (i) and has the same general effect as the similar paragraph in the original Order.

5. *Clerical Work.*—The inclusion of clerical work and canvassing carried on in connection with the sale of milk is in the same terms as in the original Order, that is to say that it is included when carried on as incidental to and in conjunction with the sale of milk wholesale or retail (paragraph 2 (i)).

6. *Employees of Farmers.*—The Minister has been advised that the Trade Boards Acts do not apply to workers who are employed in agriculture and consequently the minimum rates fixed by Trade Boards are not enforceable in respect of them. He is advised, however, that certain workers employed by farmers upon work connected with milk distribution are not employed in agriculture but by reason of their status and occupation as milk workers are entitled to be paid the minimum rates of wages fixed by the Milk Distributive Trade Board.

As at present advised the Minister will confine his action in requiring farmers to pay Milk Distributive Trade Board rates to cases of workers who are employed in connection with the retail sale of milk and who fall within the following classes:—

(1) Workers who are employed exclusively upon one or more of the operations included in the Order defining the Milk Distributive Trade (this work is described below as "milk work"). Examples of such workers are:—

(a) a worker employed exclusively on a milk round;

(b) a worker employed exclusively upon "milk work" in or about the dairy or on any other "milk work";

(c) a worker employed for part of his time on a milk round and for the rest of his time on other milk work.

(2) Workers employed on milk work but who are also employed upon other work so long as such other work does not form a substantial element of their employment. Examples of such workers are:—

(a) a worker employed on milk work for 48 hours in the week and also employed on other work in additional hours;

(b) a worker employed, during the week, on milk work for all but a very small proportion of his time and doing other work during that time.

7. *Exclusions.*—Paragraph 3 of the Amending Order indicates certain classes of work which are to be excluded.

(a) *Milk Product Factories.*—By paragraph 3 (a) the wholesale sale of milk is excluded from the Amending Order, when carried on from establishments such as creameries or cheese factories, in which milk is ordinarily used as a material for manufacture and is not ordinarily sold as milk. The intention is to exclude the occasional wholesale sale of milk by creameries, &c., but to include such sale when carried out as a regular part of the business, e.g. during the whole or the greater part of the year.

(b) By paragraph 3 (b) the wholesale sale of milk direct from the farm where it is produced is excluded in all circumstances. Thus a worker who is employed exclusively upon the wholesale sale of milk is not covered by the Amending Order.

(c) *Shops and Restaurants.*—By paragraph 3 (c) shop assistants, waiters, &c., are excluded if they are mainly engaged in shops, restaurants, or the like, in selling articles other than milk. But a person employed in the delivery of milk on a milk round (i.e. outside the shop) is included for such work even though employed for a larger number of hours in the day as a shop assistant or waiter. Further, a shop assistant, who is employed mainly in the sale of milk is, by virtue of section 1 (ii) of the Order included for all the time he acts as a shop assistant.

8. *Transport.*—The transport of goods by common carriers such as Messrs. Carter Paterson, or by railways, is not regarded as part of the Milk Distributive Trade.

9. *Meaning of "Milk."*—Milk is defined as milk other than dried or condensed milk.

Board of Trade,
Great George Street,
London, S.W. 1.
28th February, 1928.

MERCHANDISE MARKS ACT, 1926.

REPORT OF THE STANDING COMMITTEE.

With reference to the notice which was published in the London, Edinburgh and Belfast Gazettes of the 2nd September, 1927, regarding a reference made by the Board of Trade to the Standing Committee under the