STATUTORY INSTRUMENTS

# 1965 No. 2170

## WAGES COUNCILS

## The Wages Regulation (Baking) (England and Wales) (Holidays) Order 1965

*Made* - - - - 21*st December* 1965
*Coming into Operation* 24*th January* 1966

Whereas the Minister of Labour (hereafter in this Order referred to as "the Minister") has received from the Baking Wages Council (England and Wales) the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Minister by virtue of the powers conferred on him by section 11 of the Wages Councils Act 1959(a), 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 (Baking) (England and Wales) (Holidays) Order 1965.

**2.**—(1) In this Order the expression "the specified date" means the 24th January 1966, 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(b) 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 (Baking) (England and Wales) (Holidays) Order 1963(c) shall cease to have effect.

Signed by order of the Minister of Labour.
21st December 1965.

*L. J. Dunnett,*
Secretary,
Ministry of Labour.

(a) 7 & 8 Eliz. 2. c. 69. (b) 52 & 53 Vict. c. 63.
(c) S.I. 1963/1414 (1963 II, p. 2428).

## SCHEDULE

The following provisions as to holidays and holiday remuneration shall be substituted for the provisions as to holidays and holiday remuneration set out in the Wages Regulation (Baking) (England and Wales) (Holidays) Order 1963(a) (hereinafter referred to as "Order BK (70)").

### PART I

### APPLICATION

1. This Schedule applies to every worker for whom statutory minimum remuneration has been fixed.

### PART II

### CUSTOMARY HOLIDAYS

2.—(1) Subject to the provisions of this paragraph, and, except in the circumstances provided for in sub-paragraph (3) of this paragraph, an employer shall allow to every worker in his employment to whom this Schedule applies a holiday (hereinafter referred to as "a customary holiday") in each year on the days specified in the following sub-paragraph, or in sub-paragraph (5) of this paragraph, as the case may be, provided that the worker was in his employment for the week immediately preceding the customary holiday and (unless excused by the employer or absent by reason of the proved illness of the worker) worked for the employer throughout the last working day on which work was available to him immediately prior to the customary holiday.

(2) The said customary holidays are:—

(*a*) Christmas Day (or, if Christmas Day falls on a Sunday, such week day as may be appointed by national proclamation, or, if none is so appointed, the next following Tuesday), Boxing Day, Good Friday, Easter Monday, Whit Monday (*or where another day is substituted therefor by proclamation, that day*), *August Bank Holiday* and any day proclaimed as an additional Bank Holiday or as a public holiday, or

(*b*) in the case of each of the days specified above such week day (other than a weekly short day) as may be substituted therefor, being a day—

(i) on which the worker normally works, and

(ii) which is by local custom recognised as a day of holiday.

(3) Notwithstanding the preceding provisions of this paragraph, an employer may (except where in the case of a woman or young person such a requirement would be unlawful) require a worker who is otherwise entitled to any customary holiday under the foregoing provisions of this Schedule to work thereon and, in lieu of any customary holiday on which he so works, the employer shall (except in the case provided for in sub-paragraph (4) of this paragraph) allow to the worker a day's holiday (hereinafter referred to as "a holiday in lieu of a customary holiday") on a week day being:—

(*a*) a day mutually agreed between the employer and the worker, and

(*b*) a day (other than the weekly short day) on which the worker would normally work within the period of eight weeks next ensuing:

Provided that in the absence of agreement between the employer and the worker a holiday in lieu of a customary holiday shall be allowed on the last day on which the worker would normally work in the said period of eight weeks:

Provided also that where a holiday in lieu of a customary holiday is allowed, and the employer and worker so agree, it may be allowed—

(i) as an addition to the worker's annual holiday, *or additional annual holiday*, or

(a) S.I. 1963/1414 (1963 II, p. 2428).

(ii) on the Sunday immediately preceding the customary holiday if that holiday falls on a Monday and the worker ordinarily works on Sunday (other than on a preliminary doughing operation for one hour or less in the afternoon or evening).

(4) The worker shall not be entitled to be allowed a holiday in lieu of a customary holiday where by reason of the necessity of maintaining essential services it is impracticable and where it is mutually agreed between the employer and the worker before a customary holiday on which the worker works that, in respect of that customary holiday, a holiday in lieu of a customary holiday shall not be allowed to the worker.

(5) Where a worker is ordinarily employed on a spell of duty which starts before and ends after midnight he shall be allowed—

(*a*) as a customary holiday in his case the period of 24 hours commencing at noon on the day prior to the customary holiday on the days specified in sub-paragraph (2) of this paragraph;

(*b*) as a holiday in lieu of a customary holiday a period of 24 hours commencing at noon.

## PART III

## ANNUAL HOLIDAY AND ADDITIONAL ANNUAL HOLIDAY

### ANNUAL HOLIDAY

3.—(1) Subject to the provisions of this paragraph and of paragraph 4, in addition to the holidays specified in Part II of this Schedule, an employer shall, between *6th April* 1966 and 30th November 1966 and between *6th April* and 30th November in each succeeding year, allow a holiday (hereinafter referred to as "an annual holiday") to every worker in his employment to whom this Schedule applies who was employed by him during the 12 months immediately preceding the commencement of the holiday season for any of the periods specified below, and the duration of the holiday shall be related to his period of employment during that 12 months as follows:—

TABLE OF ANNUAL HOLIDAY

| Period of employment | Duration of holiday for workers with a normal working week of— | | | |
|---|---|---|---|---|
| | Six days | Five days | Four days | Three days or less |
| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
| At least 48 weeks ... | 12 days | 10 days | 8 days | 6 days |
| „ „ 44 „ ... | 11 „ | 9 „ | 7 „ | 5 „ |
| „ „ 40 „ ... | 10 „ | 8 „ | 6 „ | 5 „ |
| „ „ 36 „ ... | 9 „ | 7 „ | 6 „ | 4 „ |
| „ „ 32 „ ... | 8 „ | 6 „ | 5 „ | 4 „ |
| „ „ 28 „ ... | 7 „ | 5 „ | 4 „ | 3 „ |
| „ „ 24 „ ... | 6 „ | 5 „ | 4 „ | 3 „ |
| „ „ 20 „ ... | 5 „ | 4 „ | 3 „ | 2 „ |
| „ „ 16 „ ... | 4 „ | 3 „ | 2 „ | 2 „ |
| „ „ 12 „ ... | 3 „ | 2 „ | 2 „ | 1 day |
| „ „ 8 „ ... | 2 „ | 1 day | 1 day | 1 „ |
| „ „ 4 „ ... | 1 day | 1 „ | — | — |

(2) Notwithstanding the provisions of the foregoing sub-paragraph,

(*a*) the number of days of annual holiday to which a worker is entitled in any holiday season shall not exceed in the aggregate the period constituting twice the worker's normal working week;

(*b*) where before 23rd November in any holiday season a worker and his employer enter into an agreement in writing that the worker shall be allowed, after the end of the holiday season and before 1st January next

following, not more than six days of annual holiday for which he has qualified under this paragraph, any such days of annual holiday may be allowed in accordance with the agreement, and if so allowed shall be treated for the purposes of this Schedule as having been allowed during the holiday season;

(*c*) subject to a maximum reduction of six days the duration of the worker's annual holiday in the holiday season ending on 30th November 1966 shall be reduced by any days of annual holiday allowed to him by the employer in the circumstances described in paragraph 4 of the Schedule to Order BK(70) between 1st January 1966 and the date on which the provisions of this Schedule become effective.

(3) In this Schedule the expression "holiday season" means, in relation to an annual holiday during the year 1966, the period commencing on *6th April* and ending on 30th November and, in relation to each succeeding year, the period commencing on *6th April* and ending on 30th November in that year *and in relation to an additional annual holiday means a period of one year commencing on 6th April.*

4. Where at any time between 1st January in any year and the commencement of the holiday season in the same year an employer, at the written request of a worker, allows to the worker any day or days of holiday (other than customary holidays or holidays in lieu of customary holidays) and pays him for the day or days so allowed an amount not less than the remuneration to which he would be entitled if each such day were a day of annual holiday allowed in the holiday season, then—

(1) the duration of the annual holiday to be allowed to the worker under this Schedule in the holiday season in that year shall be reduced by the number of days of holidays so allowed before the commencement of the holiday season:

Provided that the annual holiday to be allowed to a worker in any one holiday season shall not be reduced in pursuance of this provision by more than six days; and

(2) for the purpose of calculating any accrued holiday remuneration payable under the provisions of paragraph 12, each such day of holiday so allowed before the commencement of the holiday season shall be treated as if it were a day of annual holiday for which he has qualified, allowed in the holiday season.

5. An annual holiday under this Schedule shall be allowed on consecutive working days, being days on which the worker is normally called upon to work for the employer, and days of holiday shall be treated as consecutive notwithstanding that a Sunday, a customary holiday or a holiday in lieu of a customary holiday intervenes:

Provided that where the duration of an annual holiday which the employer is required to allow to a worker exceeds the period constituting the worker's normal working week the said holiday may by agreement in writing made between the employer and the worker be allowed in two separate periods of such consecutive working days, if one of such periods is not less than the period constituting the worker's normal working week.

*6.—(1) Subject to the provisions of this paragraph, in addition to the holidays specified in paragraphs 2 and 3 an employer shall in each year commencing on 6th April allow a holiday (hereinafter referred to as an "additional annual holiday") to every worker in his employment to whom this Schedule applies*

*who has been employed by him at the preceding 5th April for a continuous period of ten years or more and the duration of the additional annual holiday shall be related to his continuous period of employment as follows :—*

*TABLE OF ADDITIONAL ANNUAL HOLIDAY*

| *Period of continuous employment* | *Duration of holiday for workers with a normal working week of—* | | | |
|---|---|---|---|---|
| | *Six days* | *Five days* | *Four days* | *Three days or less* |
| *Column 1* | *Column 2* | *Column 3* | *Column 4* | *Column 5* |
| *(a) 10 years but less than 15 years ... ...* | *3 days* | *3 days* | *2 days* | *2 days* |
| *(b) 15 years or more ...* | *6 days* | *5 days* | *4 days* | *3 days* |

*(2) Notwithstanding the provisions of the last foregoing sub-paragraph the number of days of additional annual holiday shall not exceed in the aggregate the period constituting the worker's normal working week.*

*7. Where a worker becomes entitled to any days of additional annual holiday in accordance with the provisions of paragraph 6, those days of additional annual holiday shall be allowed by the employer, by agreement with the worker, on a day or days on which the worker is normally called upon to work for the employer, at any time (or times) during the period of 12 months immediately following 5th April upon which the worker becomes entitled as aforesaid.*

## GENERAL

*8. An employer shall give a worker reasonable notice of the commencing date and duration of his annual holiday and the commencing date and duration of his additional 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.*

## PART IV

## HOLIDAY REMUNERATION

### A—CUSTOMARY HOLIDAYS

9.—(1) Subject to the provisions of this paragraph, for each customary holiday which a worker is entitled to be allowed under this Schedule he shall be paid by the employer holiday remuneration in accordance with the following table:—

TABLE OF CUSTOMARY HOLIDAY REMUNERATION

| Column 1 Holiday remuneration for each customary holiday for a worker with a normal working week of:— | | | | Column 2 |
|---|---|---|---|---|
| 6 days | 5 days | 4 days | 3 days or less | |
| One-sixth of the amount in Column 2 | One-fifth of the amount in Column 2 | One-fourth of the amount in Column 2 | One-third of the amount in Column 2 | The amount which the worker would be entitled to receive from his employer, at the date of the holiday, for a week's work, if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime other than time worked on a Sunday in the case of a worker whose normal working week includes work on Sunday), and if paid as a time worker at the appropriate general minimum time rate (being statutory minimum remuneration) for work to which that rate applies and at the same rate for work (if any) to which that rate does not apply:<br>Provided that the said amount shall not in any case exceed remuneration for *40 hours'* work at the appropriate general minimum time rate, with the addition, in the case of a worker whose normal working week includes work on a Sunday for which overtime is payable, of the sum obtained by multiplying the appropriate general minimum time rate by the number of hours usually worked by the worker on Sunday. |

Provided, however, that payment of the above-mentioned remuneration is subject to the condition that the worker presents himself for employment at the usual starting hour on the first working day following the holiday, or, if he fails to do so, failure is by reason of the proved illness of the worker or with the consent of the employer.

(2) Subject to the provisions of this paragraph, holiday remuneration in respect of any customary holiday shall be paid by the employer to the worker on the pay day on which the wages for the first working day following the holiday are paid.

(3) The holiday remuneration for a holiday in lieu of a customary holiday allowed to a worker under the provisions of this Schedule shall be equal to the amount specified for a customary holiday in sub-paragraph (1) of this paragraph, and shall be paid on the pay day on which the wages for the week including that holiday in lieu of a customary holiday, are paid:

Provided that:—

(*a*) where, under the provisions of (i) of the second proviso to sub-paragraph (3) of paragraph 2, the holiday in lieu of a customary holiday is taken as an addition to the worker's annual holiday *or additional annual holiday* the said payment shall be made on the last pay day immediately preceding that annual holiday *or additional annual holiday;*

(*b*) the said payment shall be made immediately upon the termination of the worker's employment if he ceases to be employed before being allowed a holiday in lieu of a customary holiday to which he is entitled, and in that case the condition in sub-paragraph (1) of this paragraph shall not apply.

## B—ANNUAL HOLIDAY

10.—(1) Subject to the provisions of paragraph 13, a worker entitled to be allowed an annual holiday under this Schedule shall be paid by his employer in respect thereof, on the last pay day preceding such annual holiday *whichever of the following amounts is the less that is to say :—*

*(a) a sum equal to two fifty-seconds of the total remuneration paid to him by the employer during the 12 months preceding the commencement of the holiday season ;*

*(b) the appropriate amount calculated in accordance with the following table :—*

### TABLE OF HOLIDAY REMUNERATION

| Column 1 | Column 2 Holiday remuneration for workers with normal working week of:— | | | | Column 3 |
|---|---|---|---|---|---|
| Period of holiday | Six days | Five days | Four days | Three days or less | |
| 12 days | Twice the amount in Column 3 | — | — | — | *The amount which the worker would be entitled to receive from his employer at the date of the holiday, for a week's work, if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime other than the number of hours normally worked on a Sunday necessary to bring the total up to 40) and if paid as a time worker at the appropriate general minimum time rate (being statutory minimum remuneration) for work to which that rate applies and at the same rate for work (if any) to which that rate does not apply: increased in the case of* (i) *a male worker employed on alternating night shifts, by 33⅓ per cent.;* (ii) *any other male worker by 25 per cent.; and* (iii) *a female worker, by 20 per cent.* |
| 11 „ | 1⅛ of the amount in Column 3 | — | — | — | |
| 10 „ | 1¼ of the amount in Column 3 | Twice the amount in Column 3 | — | — | |
| 9 „ | 1⅛ of the amount in Column 3 | 1⅛ of the amount in Column 3 | — | — | |
| 8 „ | 1⅛ of the amount in Column 3 | 1⅛ of the amount in Column 3 | Twice the amount in Column 3 | — | |
| 7 „ | 1⅛ of the amount in Column 3 | 1⅛ of the amount in Column 3 | 1⅛ of the amount in Column 3 | — | |
| 6 „ | The amount in Column 3 | 1⅛ of the amount in Column 3 | 1⅛ of the amount in Column 3 | Twice the amount in Column 3 | |
| 5 „ | ⅚ of the amount in Column 3 | The amount in Column 3 | 1⅛ of the amount in Column 3 | 1⅛ of the amount in Column 3 | |
| 4 „ | ⅘ of the amount in Column 3 | ⅘ of the amount in Column 3 | The amount in Column 3 | 1⅛ of the amount in Column 3 | |
| 3 „ | ¾ of the amount in Column 3 | ¾ of the amount in Column 3 | ¾ of the amount in Column 3 | The amount in Column 3 | |
| 2 „ | ½ of the amount in Column 3 | ⅔ of the amount in Column 3 | ½ of the amount in Column 3 | ⅔ of the amount in Column 3 | |
| 1 day | ⅙ of the amount in Column 3 | ⅙ of the amount in Column 3 | ⅙ of the amount in Column 3 | ⅙ of the amount in Column 3 | |

(2) Where under the provisions of paragraph 5 an annual holiday is taken in two periods, the holiday remuneration shall be apportioned accordingly.

### *C—ADDITIONAL ANNUAL HOLIDAY*

*11. A worker entitled to be allowed an additional annual holiday under this Schedule shall be paid by his employer in respect thereof on the last pay day preceding such additional annual holiday as follows:—*

*(1) Where (a) of Column 1 of the table in paragraph 6 applies:—*

*where the worker's normal working week is 6 days ... ... ... $\frac{1}{4}$*
*" " " " " " " 5 days ... ... ... $\frac{3}{10}$*
*" " " " " " " 4 days ... ... ... $\frac{1}{4}$*
*" " " " " " " 3 days or less ... ... $\frac{1}{5}$*

*of the amount he would be entitled to receive at the date of the holiday for an annual holiday of two normal working weeks determined in accordance with paragraph 10.*

*(2) Where (b) of Column 1 of the table in paragraph 6 applies:—*
*one half of the amount he would be entitled to receive at the date of the holiday for an annual holiday of two normal working weeks determined in accordance with paragraph 10.*

*(3) Where an employer allows the days of additional annual holiday otherwise than on consecutive days the remuneration shall be apportioned accordingly.*

### *D—ACCRUED HOLIDAY REMUNERATION*

*12.—(1) Subject to the provisions of this paragraph, the employer shall immediately on the termination of employment (hereinafter referred to as "the termination date") pay to the worker as accrued holiday remuneration:—*

*(a) in respect of employment in the 12 months up to 5th April preceding the termination date, a sum equal to the holiday remuneration which would be payable 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 the said date) if they were allowed at the time of leaving the employment;*

*(b) in respect of employment up to 5th April preceding the termination date, a sum equal to the holiday remuneration which would be payable for any days of additional annual holiday for which he has qualified (except days of additional annual holiday which he has been allowed or has become entitled to be allowed before the said date) if they were allowed at the time of leaving the employment;*

*(c) in respect of any employment since 5th April preceding the termination date, of not less than four weeks duration, whichever of the following amounts is the less, that is to say:—*

*(i) a sum equal to two fifty-seconds of the total remuneration paid to him by the employer in respect of employment since 5th April preceding the termination date;*

*(ii) 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 termination date calculated in accordance with the table in sub-paragraph (1) (b) of paragraph 10:*

*Provided that if during the period or periods in respect of which the said accrued holiday remuneration is payable the worker (at his request in writing) has 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.*

(2) Any accrued holiday remuneration payable under this Schedule shall be reduced by the amount of any accrued holiday remuneration already paid by the employer to the worker in pursuance of this Order or Order BK (70) in respect of the same period of employment or part thereof.

*(3) No worker shall be entitled to be paid accrued holiday remuneration if he is dismissed on the grounds of serious misconduct and is so informed by the employer at the time of dismissal.*

(4) Where a worker is employed in circumstances in 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 without having given such notice or during 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—

(*a*) in the case of a worker who leaves without giving notice, an amount equal to the holiday remuneration which would be payable to him at the termination date for an annual holiday of the same duration as his normal working week ; and

(*b*) in the case of a worker who leaves without his employer's consent during the period of his notice, an amount equal to the remuneration for one day of holiday multiplied by the number of days of the unexpired period of notice or the amount specified in (*a*) of this sub-paragraph, whichever is the less.

13. Where any accrued holiday remuneration has been paid by the employer to the worker in respect of any period of employment in the 12 months immediately preceding the holiday season within which an annual holiday is allowed by the employer to the worker in accordance with the provisions of this Schedule or of Order BK (70), the amount of the holiday remuneration payable by the employer, in respect of the said annual holiday under the provisions of paragraph 10 of this Schedule, shall be reduced by the amount of the said accrued holiday remuneration.

## PART V

## GENERAL

14. For the purposes of calculating any period of employment entitling a worker to an annual holiday, *additional annual holiday* or to any accrued holiday remuneration under this Schedule, the worker shall be treated—

(1) as if he were employed for a week in respect of any week in which

(*a*) he has worked for the employer for not less than 12 hours and has performed some work to which statutory minimum remuneration applies ; or

(*b*) he has been absent throughout the week by reason of proved illness or accident provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed 12 in the aggregate in the period of 12 months immediately preceding the commencement of the holiday season ; or

(*c*) he has been suspended throughout the week owing to shortage of work provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed 12 in the aggregate in the period of 12 months last mentioned ; or

(*d*) he has been absent throughout the week owing to stoppage of work due to a trade dispute provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed 12 in the aggregate in the said period of 12 months ; or

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule and for the purposes of the provisions of sub-paragraph (1) of this paragraph, a worker who is absent on such a holiday shall be treated as having worked thereon for the employer on work to which statutory minimum remuneration applies—

(*a*) where the holiday is a customary holiday, or a holiday in lieu of a customary holiday, for eight hours ; or

(*b*) where the holiday is a day of annual holiday, *or additional annual holiday* for the number of hours ordinarily worked by him on that day of the week.

15. Where any day of holiday allowed to any worker under this Schedule falls upon a day of holiday or a half-holiday to which the worker may be entitled under any enactment other than the Wages Councils Act 1959, that day of holiday or that half-holiday, as the case may be, shall be treated as part of the holiday allowed under this Schedule.

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

"normal working week" means the number of days on which it has been usual for the worker to work in a week in the employment of the employer,

(*a*) in the case where holiday remuneration is payable in respect of a customary holiday under paragraph 9, in the three months immediately preceding the customary holiday;

(*b*) in the case where holiday remuneration in respect of annual holiday *or additional annual holiday* is payable under paragraph 10 or 11 in the 12 months immediately preceding the commencement of the holiday season;

(*c*) in the case where accrued holiday remuneration is payable under paragraph 12, in the 12 months immediately preceding the termination date:

Provided that—

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

(ii) 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.

"spell of duty" means a period of work broken only by intervals for meals.

"statutory minimum remuneration" means minimum remuneration (other than holiday remuneration) fixed by a wages regulation order made by the Minister to give effect to proposals submitted to him by the Baking Wages Council (England and Wales).

(2) In paragraphs 3 and 14 "week" means "pay week".

17. The provisions of this Schedule are without prejudice to any agreement for the allowance of any further holidays with pay or for the payment of additional holiday remuneration.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which has effect from 24th January 1966, sets out the holidays which an employer is required to allow to workers and the remuneration payable for those holidays in substitution for the holidays and holiday remuneration fixed by the Wages Regulation (Baking) (England and Wales) (Holidays) Order 1963 (Order BK (70)), which is revoked.

New provisions are printed in italics.