STATUTORY INSTRUMENTS

1968 No. 1356

WAGES COUNCILS

The Wages Regulation (Cotton Waste Reclamation) (Holidays) Order 1968

Made - - - 22*nd August* 1968
Coming into Operation 11*th September* 1968

Whereas the Secretary of State has received from the Cotton Waste Reclamation Wages Council (Great Britain) the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Secretary of State in exercise of her powers under section 11 of the Wages Councils Act 1959(a), and of all other powers enabling her in that behalf, hereby makes the following Order:—

1. This Order may be cited as the Wages Regulation (Cotton Waste Reclamation) (Holidays) Order 1968.

2.—(1) In this Order the expression "the specified date" means the 11th September 1968, 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 (Cotton Waste Reclamation) (Holidays) Order 1965(c) shall cease to have effect.

Signed by order of the Secretary of State.

22nd August 1968.

C. J. Maston,
Assistant Under Secretary of State,
Department of Employment and Productivity.

(a) 1959 c. 69.
(b) 1889 c. 63.
(c) S.I. 1965/2136 (1965 III, p. 6278).

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 (Cotton Waste Reclamation) (Holidays) Order 1965 (hereinafter referred to as "Order C.W. (76)").

PART I

APPLICATION

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

PART II

CUSTOMARY HOLIDAYS

2.—(1) An employer shall allow to every worker 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 provided that the worker has been in his employment for a period of not less than 24 working days immediately preceding the customary holiday and (unless excused by the employer or absent by reason of the proved illness of, or accident to, the worker) has worked for the employer throughout the three working days on which work was available to him immediately preceding the customary holiday.

(2) The said customary holidays are:—

(*a*) (i) In England and Wales—

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 and August Bank Holiday;

(ii) In Scotland—

New Year's Day (or, if New Year's Day falls on a Sunday, the following Monday);

the local Spring holiday;

the local Autumn holiday; and

three other days (being days on which the worker normally works for the employer) in the course of a calendar year to be fixed by the employer and notified to the worker not less than three weeks before the holiday;

or (*b*) in the case of each of the said days (other than a day fixed by the employer in Scotland and notified to the worker as aforesaid) a day substituted by the employer therefor, being a day recognised by local custom as a day of holiday in substitution for the said day, or a day substituted therefor by mutual agreement between the employer and the worker or his representative.

(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 holiday on which he so works, the employer shall allow to the worker a day's holiday (hereinafter referred to as a "holiday in lieu of a customary holiday") on a week day on which he would normally work for the employer, within the period of four weeks next ensuing.

(4) A worker who is required to work on a customary holiday shall be paid:—

(*a*) for all time worked thereon, the statutory minimum remuneration then appropriate to the worker for work on a customary holiday; and

(*b*) in respect of the holiday in lieu of the customary holiday, holiday remuneration in accordance with paragraph 6.

PART III

ANNUAL HOLIDAY

3.—(1) Subject to the provisions of paragraph 4, in addition to the holidays specified in Part II of this Schedule an employer shall, between the date on which this Order becomes effective and 30th September 1968, and between 1st May and 30th September 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 has been employed by him during the 12 months immediately preceding the commencement of the holiday season for any of the periods of employment (calculated in accordance with the provisions of paragraph 10) set out in the table below and the duration of the annual holiday shall in the case of each such worker be related to his period of employment during that 12 months as follows:—

Workers with a normal working week of six days		Workers with a normal working week of five days or less	
Period of employment	Duration of annual holiday	Period of employment	Duration of annual holiday
At least 48 weeks	*15 days*	*At least 48 weeks*	*13 days*
" " *45* "	*14* "	" " *45* "	*12* "
" " *42* "	*13* "	" " *42* "	*11* "
" " *39* "	*12* "	" " *39* "	*10* "
" " *36* "	*11* "	" " *36* "	*9* "
" " *33* "	*10* "	" " *32* "	*8* "
" " *30* "	*9* "	" " *28* "	*7* "
" " *27* "	*8* "	" " *24* "	*6* "
" " *24* "	*7* "	" " *20* "	*5* "
" " *21* "	*6* "	" " *16* "	*4* "
" " *18* "	*5* "	" " *12* "	*3* "
" " *15* "	*4* "	" " *8* "	*2* "
" " *12* "	*3* "	" " *4* "	*1 day*
" " *8* "	*2* "		
" " *4* "	*1 day*		

(2) Notwithstanding the provisions of the foregoing sub-paragraph the number of days of annual holiday which an employer is required to allow to a worker in any holiday season shall not exceed *in the aggregate in the case of a worker with a normal working week of four days or more twice the number of days constituting the worker's normal working week, plus three days; and in the case of a worker with a normal working week of less than four days three times the number of days constituting the worker's normal working week.*

(3) The duration of the worker's annual holiday during the holiday season ending on 30th September 1968, shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order C.W. (76) between 1st May 1968 and the date on which the provisions of this Schedule become effective.

(4) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1968 the period commencing on 1st May 1968 and ending on 30th September 1968 and in relation to each subsequent year the period commencing on 1st May and ending on 30th September in that year.

4.—(1) Subject to the provisions of this paragraph, an annual holiday under this Schedule shall be allowed on consecutive working days, being days upon 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 on which the worker is not reqired to work or a holiday in lieu of a customary holiday intervenes:

Provided that:—

(*a*) where the duration of an annual holiday which an employer is required to allow to a worker exceeds the number of days constituting the worker's normal working week *but does not exceed the period constituting twice his normal working week*, the said holiday may, by agreement between the employer and the worker or his representative, be allowed in two separate periods of such consecutive working days one of which shall be not less than the period of the worker's normal working week;

(*b*) *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 the holiday may be allowed as follows:—*

(*i*) *as to two periods of consecutive working days, each such period not being less than the period constituting the worker's normal working week, during the holiday season; and*

(*ii*) *as to any additional days, on working days which need not be consecutive, to be fixed by agreement between the employer and the worker or his representative, either during the holiday season or on any working day before the beginning of the next following holiday season;*

(*c*) one day of an annual holiday may be allowed on a non-consecutive working day (other than the worker's weekly short day) falling within the holiday season where the said annual holiday or, as the case may be, such separate period is allowed immediately after a customary holiday or so that such a holiday intervenes.

(2) Subject to the provisions of sub-paragraph (1) of this paragraph, any day of annual holiday under this Schedule may be allowed on a day on which the worker is entitled to a day of holiday or to a half holiday under any enactment other than the Wages Councils Act 1959.

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

PART IV

HOLIDAY REMUNERATION

A.—CUSTOMARY HOLIDAYS AND HOLIDAYS IN LIEU OF CUSTOMARY HOLIDAYS

6.—(1) Subject to the provisions of this paragraph, for each day of holiday to which a worker is entitled under Part II of this Schedule he shall be paid by the employer holiday remuneration equal to the amount, calculated at the appropriate rate of statutory minimum remuneration, to which he would have been entitled as a time worker if the day had not been a day of holiday and he had been employed on work for which statutory minimum remuneration is payable for the time usually worked by him on that day of the week:

Provided, however, that payment of the said holiday remuneration is subject to the condition that the worker (unless excused by the employer or absent by reason of the proved illness of, or accident to, the worker) works for the employer throughout the three working days on which work is available to him immediately following the customary holiday.

(2) The 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 week including the last of the three working days aforesaid are paid.

(3) The holiday remuneration for any holiday in lieu of a customary holiday shall be paid on the pay day on which the wages are paid for the week including that holiday in lieu of a customary holiday: Provided that the said payment shall be made immediately upon the termination of the worker's employment in the case where 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 proviso contained in sub-paragraph (1) of this paragraph shall not apply.

B.—ANNUAL HOLIDAY

7.—(1) Subject to the provisions of paragraph 8, a worker qualified 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, one day's holiday pay (as defined in paragraph 11) in respect of each day thereof.
(2) Where under the provisions of paragraph 4 an annual holiday is allowed in more than one period, the holiday remuneration shall be apportioned accordingly.

8. Where any accrued holiday remuneration has been paid by the employer to the worker in accordance with paragraph 9 of this Schedule or in accordance with the provisions of Order C.W. (76), in respect of employment during any of the periods referred to in that paragraph or that Order respectively, 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 C.W. (76).

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

9. 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, pay to the worker as accrued holiday remuneration:—

(1) in respect of employment in the 12 months up to the preceding 30th April, 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 the preceding 30th April, 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 where a worker is employed under a contract of service under which not less than one week's notice on either side is required to terminate the employment and the worker without the consent of his employer terminates his employment—

(*a*) without having given not less than one week's notice, or

(*b*) before one week has expired from the beginning of such notice,

the amount of accrued holiday remuneration payable to the worker shall be the amount payable under the foregoing provisions of this paragraph, less an amount equal to the holiday remuneration which would be payable to the worker for one day of annual holiday multiplied, in the case of (*a*) by the number of days constituting the worker's normal working week or, in the case of (*b*), by the number of days which at the termination of the employment would complete a normal working week commencing at the beginning of the notice.

PART V

GENERAL

10. 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:—

(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 36 hours and has performed some work for which statutory minimum remuneration is payable; or

(*b*) he has been absent throughout the week in the circumstances specified below, but not exceeding in the aggregate in the period of 12 months immediately preceding the commencement of the holiday season the following number of weeks—

where the absence is due to the proved illness of, or accident to, the worker	6 weeks
where the absence is due to suspension from work by reason of shortage of work	4 weeks

and

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order C.W. (76), 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 the number of hours ordinarily worked by him for the employer on that day of the week on work for which statutory minimum remuneration is payable.

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

"appropriate rate of statutory minimum remuneration" means:—

(1) in the case of a time worker, the rate of statutory minimum remuneration applicable to the worker, and

(2) in the case of a piece worker, the rate of statutory minimum remuneration which would be applicable to the worker if he were a time worker.

"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 during the 12 months immediately preceding the commencement of the holiday season or, where under paragraph 9 accrued holiday remuneration is payable on the termination of the employment, during the 12 months immediately preceding the date of the termination of the employment: Provided that—

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

(*b*) 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 allowed in more than one period at the date of the first period) or at the termination of the employment, as the case may require, 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 to which such remuneration does not apply, and in this definition "appropriate proportion" means—

Where the worker's normal working week is six days ...	one-sixth
Where the worker's normal working week is five days ...	one-fifth
Where the worker's normal working week is four days or less	one-quarter

"statutory minimum remuneration" means minimum remuneration (other than holiday remuneration) fixed by a wages regulation order.

"wages regulation order" means a wages regulation order made by the Secretary of State to give effect to proposals submitted to her by the Wages Council.

"week" in paragraphs 3, 6 and 10 means "pay week".

12. 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 the 11th September 1968, 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 (Cotton Waste Reclamation) (Holidays) Order 1965 (Order C.W. (76)) which Order is revoked.

New provisions are printed in italics.