1965 No. 2036

WAGES COUNCILS

The Wages Regulation (Cutlery) (Holidays) Order 1965

Made - - - - 30*th November* 1965
Coming into Operation - 17*th December* 1965

Whereas the Minister of Labour (hereafter in this Order referred to as " the Minister ") has received from the Cutlery Wages Council (Great Britain) 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 (Cutlery) (Holidays) Order 1965.

2.—(1) In this Order the expression " the specified date " means the 17th December 1965, 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 (Cutlery) (Holidays) Order 1960(c) and Schedule 2 to the Wages Regulation (Cutlery) Order 1965(d) shall cease to have effect.

Signed by order of the Minister of Labour 30th November 1965.

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

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 (Cutlery) (Holidays) Order 1960 (hereinafter referred to as " Order C.T. (65) ") as amended by Schedule 2 to the Wages Regulation (Cutlery) Order 1965 (hereinafter referred to as " Order C.T. (74) ").

(a) 7 & 8 Eliz. 2. c. 69.
(b) 52 & 53 Vict. c. 63.
(c) S.I. 1960/1676 (1960 III, p. 3435).
(d) S.I. 1965/1102 (1965 II, p. 2812).

PART I
APPLICATION

1. This Schedule applies to every worker for whom statutory minimum remuneration has been fixed except that Part II shall not apply to any outworker and Part III shall not apply to an outworker who is:—

(1) required by his employer to supply parts or materials for incorporation in any articles the manufacture of which is included in the Cutlery Trade, as specified in the Schedule to the Trade Boards (Cutlery Trade, Great Britain) (Constitution and Proceedings) Regulations 1933(a), or

(2) engaged on his own account in the sale of the said articles referred to in sub-paragraph (1) of this paragraph or any of them.

PART II
CUSTOMARY HOLIDAYS

2.—(1) An employer shall allow to every worker (other than an outworker) 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, provided that the worker has been in his employment for a period of not less than four weeks immediately preceding the customary holiday and has worked for the employer during the whole or part of that period and (unless excused by the employer or absent by reason of the proved illness of the worker) has worked for the employer throughout the last working day 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 weekday 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) 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 either a day recognised by local custom as a day of holiday in substitution for the said day or a weekday agreed 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 qualified to be allowed a customary holiday under the foregoing provisions of this Schedule to work thereon, and, where he does so, 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 weekday on which he would normally work for the employer (not being the worker's weekly short day) within the six weeks immediately following the customary holiday.

(4) A worker who is required to work on a customary holiday which he is otherwise entitled to be allowed shall be paid:—

(*a*) for all time worked thereon at the minimum rate 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 7.

(a) S. R. & O. 1933/1056 (Rev. XXIII, p. 471 : 1933, p. 2035).

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 1st May 1966 and 30th September 1966, and in each succeeding year between 1st May and 30th September, allow a holiday (hereinafter referred to as an " annual holiday ") to every worker in his employment to whom this Part of this Schedule applies, who has been employed by him during the *qualifying period* immediately preceding the commencement of the holiday season for any of the periods specified in sub-paragraph (*a*) in the case of a worker other than an outworker, or for the period specified in sub-paragraph (*b*) in the case of an outworker, and the duration of a worker's holiday shall be related to his period of employment during that *qualifying period* as follows:—

(*a*) in the case of a worker other than an outworker:—

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

Provided that the number of days of annual holiday which an employer is required to allow under the foregoing provisions of this paragraph to a worker in any holiday season shall not exceed in the aggregate twice the number of days constituting the worker's normal working week.

(*b*) in the case of an outworker:—

Period of employment	Duration of holiday
Any period of employment	Twice the number of days constituting the worker's normal working week.

(2) In this Schedule the expression " holiday season " means in relation to the year 1966 the period commencing on 1st May 1966 and ending on 30th September 1966, and in each succeeding year, the period commencing on 1st May and ending on 30th September of the same year, *and the expression " qualifying period " means in relation to the year 1966 the period commencing on 6th April 1965 and ending on 5th April 1966 and in each succeeding year, the period commencing on 6th April in the previous year and ending on 5th April in the current 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 on which the worker is normally called upon to work for the employer, and days of annual holiday shall be treated as consecutive notwithstanding that a Sunday, a customary holiday on which the worker is not required to work for the employer or a holiday in lieu of a customary holiday intervenes.

(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, the holiday may 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:

Provided that for such a case one day of the annual holiday may be allowed on a non-consecutive working day (other than the worker's weekly short day) falling within the period of six weeks next ensuing where the annual holiday, or a period of annual holiday, as the case may be, is allowed immediately after a customary holiday on which the worker is not required to work or so that such a holiday intervenes.

(3) Subject to the provisions of sub-paragraphs (1) and (2) 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.—(1) An employer shall give to a worker other than an outworker 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.

(2) Where an employer is required to allow an outworker an annual holiday, the employer or the outworker shall give to the other at least 14 days' notice of the allowing or taking of that holiday, as the case may be, and of its commencing date. Where no such notice is given, the holiday shall be allowed and taken in the last two weeks of the holiday season.

Part IV

ADDITIONAL ANNUAL HOLIDAY FOR LONGER-SERVICE WORKERS

6.—(1) Subject to this paragraph in addition to the holidays specified in paragraphs 2 and 3 an employer shall, in each 12 months commencing on 1st May allow to every worker (other than an outworker) in his employment to whom this Schedule applies who has been employed by him at the preceding 5th April for a continuous period of 12 months or more, two days of additional annual holiday.

(2) The days of additional annual holiday shall be allowed by the employer as aforesaid, by agreement with the worker, on any days (which need not be consecutive) on which the worker is usually called upon to work for the employer at any time or times during the said 12 months.

PART V

HOLIDAY REMUNERATION

A—CUSTOMARY HOLIDAYS AND HOLIDAYS IN LIEU OF CUSTOMARY HOLIDAYS

7.—(1) Subject to the provisions of this paragraph, for each day of holiday which a worker is allowed under Part II of this Schedule he shall be paid by the employer holiday remuneration equal to the amount to which he would have been entitled if the day had not been a day of holiday and he had worked on that day on work for which statutory minimum remuneration is payable:—

(*a*) in the case of a time worker, for *8 hours* at the general minimum time rate applicable to him, or

(*b*) in the case of a piece worker, for *8 hours* at a time rate equal to the piece work basis time rate applicable to him:

Provided that where the number of hours normally worked in a week by a worker is less than 40 the said holiday remuneration shall be the remuneration which would be due to the worker if he worked his normal number of daily hours and if he were paid at the general minimum time rate if working as a timeworker and at the piece work basis time rate if working as a piece worker, and for the purposes of this paragraph the normal daily hours of the worker shall be one twentieth of the number of hours (exclusive of overtime) worked by him in the four weeks during which he has worked for the employer immediately preceding the day of holiday.

(2) Notwithstanding the provisions of the foregoing sub-paragraph, payment of the said holiday remuneration is subject to the condition that the worker presents himself for employment within one hour of the usual starting hour on the first working day following the holiday and works throughout the remainder of that day, 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.

(3) The holiday remuneration in respect of any holiday allowed under Part II of this Schedule shall be paid by the employer to the worker on the pay day on which wages are paid for the first working day following the holiday:

Provided that where a worker ceases to be employed before being allowed a holiday in lieu of a customary holiday, he shall be paid the holiday remuneration for that day immediately upon the termination of his employment and in such a case the condition contained in sub-paragraph (2) of this paragraph shall not apply.

B—ANNUAL HOLIDAY

8.—(1) Subject to the provisions of paragraph 10 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, holiday remuneration as follows, that is to say:—

(*a*) in the case of an adult male worker other than an outworker, one twenty-fifth of the amount specified in sub-paragraph (2) of this paragraph, but not exceeding *£26 10s. 0d.*;

(*b*) in the case of an adult female worker other than an outworker, one twenty-fifth of the amount specified in sub-paragraph (2) of this paragraph, but not exceeding *£22 5s. 0d.*;

(*c*) in the case of a male or female worker under 21 years of age other than an outworker, one twenty-fifth of the amount specified in sub-paragraph (2) of this paragraph, but not exceeding the amount obtained by multiplying by *80* the minimum hourly rate of remuneration applicable to the worker at the commencement of the holiday season;

(*d*) in the case of an outworker who is a grinder, one twenty-fifth of 85 per cent. of the amount specified in sub-paragraph (2) of this paragraph;

(*e*) in the case of any other outworker, one twenty-fifth of 90 per cent. of the amount specified in sub-paragraph (2) of this paragraph.

(2) The amount referred to in sub-paragraph (1) of this paragraph is the total remuneration, other than holiday remuneration, paid by the employer to the worker in respect of all work performed by the worker for the employer during the *qualifying period* immediately preceding the commencement of the holiday season.

(3) Where under the provisions of paragraph 4:—

(*a*) an annual holiday is allowed in more than one period, the holiday remuneration shall be apportioned accordingly;

(*b*) one day of annual holiday is allowed on a non-consecutive working day the holiday remuneration for that day shall be paid to the worker on the pay day next following that day.

C—ADDITIONAL ANNUAL HOLIDAY

9. *Subject to the provisions of paragraph 10, for each day of additional annual holiday a worker shall be paid by his employer, on the pay day on which wages are paid for the first working day following such a holiday an amount equal to the holiday remuneration to which he would have been entitled if the day had been a day of customary holiday to which the provisions of paragraph 7 apply.*

10. Where any accrued holiday remuneration has been paid by the employer to the worker (in accordance with paragraph 11 of this Schedule or with Order C.T. (65), as amended by Schedule 2 to Order C.T. (74)), in respect of any employment during any of the periods referred to in that paragraph or those Orders 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.T. (65) as amended.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

11. 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 5th April* a sum equal to the holiday remuneration for any days of annual holiday *or days of additional annual holiday* for which he has qualified, except days 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 *5th 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 or,

(*a*) in the case of a male worker other than an outworker, a sum calculated at the rate of *10s. 7d.* in respect of each week of employment since the said *5th April*, whichever is the less;

(*b*) in the case of a female worker other than an outworker, a sum calculated at the rate of *8s. 11d.* in respect of each week of employment since the said *5th April*, whichever is the less.

PART VI

GENERAL

12. For the purposes of calculating any period of employment qualifying a worker for an annual holiday, *additional 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 24 hours and has performed some work for which statutory minimum remuneration is payable;

(*b*) he has been absent throughout the week, or he has worked for the employer for less than 24 hours by reason of the proved illness of, or accident to, the worker, provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed six in the aggregate in *any qualifying period;* or

(*c*) he is absent from work throughout the week owing to suspension due to shortage of work, provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed nine in the aggregate in *any qualifying period;* and

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order C.T. (65), 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 for the number of hours ordinarily worked by him on that day of the week on work for which statutory minimum remuneration is payable.

13. 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 in the *qualifying period* immediately preceding the commencement of a holiday season or, where under paragraph 11 accrued holiday remuneration is payable on the termination of the employment, in the 12 months immediately preceding the termination date:

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.

" outworker " means a worker who works in his own home or in any other place not under the control or management of the employer.

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

" week " means " pay week ".

14. 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 17th December 1965, 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 (Cutlery) (Holidays) Order 1960 (Order C.T. (65)), as amended by Schedule 2 to the Wages Regulation (Cutlery) Order 1965 (Order C.T. (74)), which Orders are revoked.

New provisions are printed in italics.