STATUTORY INSTRUMENTS

1970 No. 810

WAGES COUNCILS

The Wages Regulation (Fur) (Holidays) Order 1970

Made - - -	*27th May* 1970
Coming into Operation	*23rd June* 1970

Whereas the Secretary of State has received from the Fur Wages Counci (Great Britain) the wages regulation proposals set out in the Schedule hereto

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

1. This Order may be cited as the Wages Regulation' (Fur) (Holidays Order 1970.

2.—(1) In this Order the expression "the specified date" means the 23r June 1970, provided that where, as respects any worker who is paid wage at intervals not exceeding seven days, that date does not correspond with th beginning of the period for which the wages are paid, the expression "th specified date" means, as respects that worker, the beginning of the next suc period following that date.

(2) The Interpretation Act 1889(**b**) shall apply to the interpretation of thi Order as it applies to the interpretation of an Act of Parliament and as if thi Order and the Order hereby revoked were Acts of Parliament.

3. The wages regulation proposals set out in the Schedule hereto shall hav effect as from the specified date and as from that date the Wages Regulatio (Fur) (Holidays) Order 1967(**c**), shall cease to have effect.

Signed by order of the Secretary of State.
27th May 1970.

A. A. Jarratt,
Deputy Under Secretary of State,
Department of Employment and Productivity

(**a**) 1959 c. 69. (**b**) 1889 c. 63. (**c**) S.I. 1967/1166 (1967 II, p. 3411).

SCHEDULE Article 3

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 (Fur) (Holidays) Order 1967 (Order Z. (84)).

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 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 was 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, or accident to, 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*) (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 (or where another day is substituted therefor by national proclamation, that day) 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 four 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 therefor, being either a day recognised by local custom as a day of holiday in substitution for the said day, or a day 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 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 worker shall be entitled to be allowed 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 within the period of three weeks next ensuing.

PART III

ANNUAL HOLIDAY

3.—(1) In addition to the holidays specified in Part II of this Schedule, and subject to the following provisions of this paragraph and to paragraph 4, an employer shall, between the date on which the provisions of this Schedule become effective and 31st

October 1970 and in each succeeding year between 1st April and 31st October, 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 of employment (calculated in accordance with the provisions of paragraph 10) set out in the appropriate column of the table below, and the duration of the annual holiday shall, in the case of each such worker, be related to that period as follows:—

Period of employment	Where the worker's normal working week is six days	Where the worker's normal working week is five days or less
	Duration of annual holiday in 12 months commencing 1st April	Duration of annual holiday in 12 months commencing 1st April
	Days	Days
At least 48 weeks	*18*	15
" " 46 "	*17*	14
" " 45 "	*16*	14
" " 44 "	*16*	13
" " 42 "	*15*	13
" " 40 "	*14*	12
" " 39 "	*13*	12
" " 38 "	*13*	11
" " 36 "	*12*	11
" " 33 "	*11*	10
" " 30 "	*10*	9
" " 27 "	*9*	8
" " 24 "	*8*	7
" " 21 "	*7*	6
" " 18 "	*6*	5
" " 15 "	*5*	4
" " 12 "	*4*	3
" " 9 "	*3*	2
" " 8 "	*2*	2
" " 6 "	*2*	1
" " 4 "	*1*	1
" " 3 "	*1*	—

(2) Notwithstanding the provisions of the last foregoing sub-paragraph:—

(*a*) the number of days of annual holiday which an employer is required to allow to a worker in respect of a period of employment during the 12 months immediately preceding 1st April 1970 and that period in each succeeding year shall not exceed in the aggregate three times the number of days constituting the worker's normal working week.

(*b*) the duration of the worker's annual holiday during the holiday season ending on 31st October 1970 shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order Z.(84) during the period from and including 1st April 1970 to 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 1970 the period commencing on 1st April 1970 and ending on 31st October 1970, and in relation to each subsequent year, the period commencing on 1st April and ending on 31st October in that year.

4.—(1) Subject to the provisions of this paragraph, an annual holiday shall be allowed on consecutive working days and days of holiday shall be treated as consecutive

notwithstanding that a day of holiday allowed to a worker under Part II of this Schedule or a day upon which he does not normally work for the employer intervenes.

(2)(*a*) Where the number of days of annual holiday for which a worker has qualified exceeds the number of days constituting his normal working week, but does not exceed twice that number, 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.

(*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 the employer either during the holiday season or on any working day before the beginning of the next following holiday season.

(3) Where a customary holiday immediately precedes a period of annual holiday or occurs during such a period and the total number of days of annual holiday required to be allowed in the period under the foregoing provisions of this paragraph, together with any such customary holiday, exceeds the number of days constituting the worker's normal working week then, notwithstanding the foregoing provisions of this paragraph, the duration of that period of annual holiday may be reduced by one day and in such a case one day of annual holiday may be allowed on any working day (not being the worker's weekly short day) in the holiday season.

(4) A day of annual holiday under this Schedule shall not be allowed on any 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 notice of the commencing date or dates and duration of the period or periods of his annual holiday. Such notice shall be given at least 28 days before the first day of the annual holiday, or where under the provisions of sub-paragraph (2) of paragraph 4 an annual holiday is allowed in more than one period, before each period, and 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 which would be payable in accordance with the provisions of paragraph 7 if the day had been a day of annual holiday except that, for this purpose, the expression "normal working week" in that paragraph shall have the meaning assigned to it in paragraph 11, in relation to a customary holiday or a holiday in lieu of a customary holiday:

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) presents himself for employment at the usual starting hour on the first working day following the holiday.

(2) The holiday remuneration in respect of any customary holiday shall be paid by the employer to the worker not later than the pay day on which the wages are paid for the first working day following the customary holiday.

(3) The holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid not later than the pay day on which the wages are paid for the first working day following the 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 ceased 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 of annual holiday.

(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 Z.(84)) in respect of employment during any period referred to in that paragraph or that Order, 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 Z.(84).

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 31st March, a sum equal to the holiday remuneration which would be payable for any day 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) if they were allowed at the time of leaving the employment; and

(2) in respect of any employment since the said 31st March, 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.

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 12 hours and has performed some work for which statutory minimum remuneration is payable;

(*b*) he has been absent throughout the week solely 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 eight in the aggregate in the period of 12 months immediately preceding the commencement of the holiday season;

(*c*) he is absent from work throughout the week due to suspension because of shortage of work: provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed two at any one time;

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

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule, or of the Schedule to Order Z.(84), and for the purpose 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.

11. 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, in relation to—

(1) an annual holiday, or one day's holiday pay, 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 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, in the 12 months immediately preceding the date of the termination of the employment;

(2) a customary holiday or a holiday in lieu of a customary holiday, 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 four weeks immediately preceding the customary holiday:

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—

(1) 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 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)—

(*a*) in the case of a time worker, under the arrangement current immediately prior to the holiday;

(*b*) in the case of a piece worker other than a flesher, shaver and unhairer, if he were employed as a time worker at a time rate equal to the piece work basis time rate of statutory minimum remuneration then applicable to him as a piece worker or where no piece work basis time rate is applicable, at the appropriate hourly general minimum time rate of statutory minimum remuneration;

(2) in the case of piece workers employed as fleshers, shavers and unhairers

	Males	Females
	£2 10s. 6d.	£1 18s. 6d.

In this definition "appropriate proportion" means—

where the worker's normal working week is six days ...	one-sixth
" " " " " " " five days ...	one-fifth
" " " " " " " four days ...	one-quarter
" " " " " " " three days ...	one-third
" " " " " " " two days ...	one-half

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

"week" in paragraphs 3 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 23rd June 1970, 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 (Fur) (Holidays) Order 1967 (Order Z. (84)), which Order is revoked.

New provisions are printed in italics.

SI 1970/ 810
ISBN 0-11-000810-3

