STATUTORY INSTRUMENTS

1975 No. 1119

WAGES COUNCILS

The Wages Regulation (General Waste Materials Reclamation) (Holidays) Order 1975

Made - - - - *7th July* 1975

Coming into Operation *28th July* 1975

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

Now, therefore, the Secretary of State in exercise of powers conferred by section 11 of the Wages Councils Act 1959(**a**), and now vested in him(**b**), 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 (General Waste Materials Reclamation) (Holidays) Order 1975.

2.—(1) In this Order the expression "the specified date" means the 28th July 1975, 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(**c**) 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 (General Waste Materials Reclamation) (Holidays) Order 1973(**d**), as amended by the Wages Regulation (General Waste Materials Reclamation) Order 1974(**e**), shall cease to have effect.

Signed by order of the Secretary of State.
7th July 1975.

R. J. Dawe,
Assistant Secretary,
Department of Employment.

(**a**) 1959 c. 69.
(**b**) S.I. 1959/1769, 1968/729 (1959 I, p. 1795; 1968 II, p. 2108).
(**c**) 1889 c. 63.
(**d**) S.I. 1973/954 (1973 II, p. 2877).
(**e**) S.I. 1974/1068 (1974 II, p. 3962).

Article 3

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 (General Waste Materials Reclamation) (Holidays) Order 1973 (Order D.B. (79)), as amended by the Wages Regulation (General Waste Materials Reclamation) Order 1974 (Order D.B. (81)).

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 four weeks 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 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;
26th December if it be not a Sunday;
27th December in a year when 25th or 26th December is a Sunday;
New Year's Day if it be not a Sunday or, if it be a Sunday, 2nd January;
Good Friday;
Easter Monday;
the last Monday in May; the last Monday in August;
(or, where a day is substituted for any of the above days by national proclamation, that day); and any day proclaimed as an additional bank holiday or as a public holiday throughout England and Wales;

(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
four 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; and any day proclaimed as an additional bank holiday or as a public holiday throughout Scotland; 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.

PART III

ANNUAL HOLIDAY

3.—(1) Subject to the provisions of this paragraph and paragraph 4, in addition to the holidays specified in Part II of this Schedule an employer shall, between the date on

which this Schedule becomes effective, and 30th September 1975, 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 appropriate column of 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	*19* days	At least 48 weeks	*16* days
,, ,, 44 ,, ...	11 ,,	,, ,, 43 ,, ...	9 ,,
,, ,, 40 ,, ...	10 ,,	,, ,, 38 ,, ...	8 ,,
,, ,, 36 ,, ...	9 ,,	,, ,, 33 ,, ...	7 ,,
,, ,, 32 ,, ...	8 ,,	,, ,, 28 ,, ...	6 ,,
,, ,, 28 ,, ...	7 ,,	,, ,, 24 ,, ...	5 ,,
,, ,, 24 ,, ...	6 ,,	,, ,, 19 ,, ...	4 ,,
,, ,, 20 ,, ...	5 ,,	,, ,, 14 ,, ...	3 ,,
,, ,, 16 ,, ...	4 ,,	,, ,, 9 ,, ...	2 ,,
,, ,, 12 ,, ...	3 ,,	,, ,, 4 ,, ...	1 day
,, ,, 8 ,, ...	2 ,,		
,, ,, 4 ,, ...	1 day		

(2) Notwithstanding the provisions of the last foregoing sub-paragraph, 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 May 1975 and during the 12 months immediately preceding 1st May in any succeeding year shall not exceed in the aggregate three times the number of days constituting the worker's normal working week, *plus one day*.

(3) The duration of the worker's annual holiday during the holiday season ending on 30th September 1975, shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order D.B. (79), as amended, between 1st May 1975 and the date on which the provisions of this Schedule become effective.

(4) In this Schedule the expression "holiday season" means in relation to the year 1975 the period commencing on 1st May 1975 and ending on 30th September 1975 and, in each succeeding year, the period commencing on 1st May and ending on 30th September of the same year.

4.—(1) Subject to the provisions of this paragraph, an annual holiday shall be allowed on consecutive working days, being days on which the worker is normally called upon to work for the employer.

(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 the additional days, on working days, to be fixed by agreement between the employer or his representative, and the worker or his representative, either during the holiday season or within the period ending on 30th April immediately following the holiday season.

(3) For the purposes of this paragraph, days of annual holiday shall be treated as consecutive notwithstanding that a customary holiday or a day upon which the worker does not normally work for the employer intervenes.

(4) 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.

(5) Subject to the provisions of the foregoing sub-paragraphs 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

6.—(1) Subject to the provisions of this paragraph, for each day of customary 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 appropriate 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) presents himself for employment at the usual starting hour on the first working day following the customary holiday and works throughout the remainder of that day.

(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 first working day following the customary holiday are paid.

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 D.B. (79), as amended, 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.

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 and including 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 said 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—

(*a*) no worker shall be entitled to the payment by his employer of accrued holiday remuneration if he is dismissed on the grounds of misconduct and is so informed in writing by the employer at the time of dismissal;

(*b*) 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—

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

(ii) 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 (i) by the number of days constituting the worker's normal working week or, in the case of (ii), 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 24 hours and has performed some work for which statutory minimum remuneration is payable; or

(*b*) he has been absent throughout the week by reason of the proved illness of, or accident to, the worker, or for a like reason has worked for the employer for less than 24 hours:

Provided that the number of weeks which may be treated as weeks of employment for such reasons shall not exceed six 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 four in the aggregate in the period of 12 months last mentioned; and

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order D.B. (79), as amended, 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:—

"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 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—

(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.

"one day's holiday pay" means—

the appropriate proportion of the amount which the worker would be entitled to receive from his employer, at the beginning of the holiday or the first period of the holiday, as the case may be, for a week's work, if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime), and if paid—

(*a*) in the case of a time worker, at the appropriate rate of statutory minimum remuneration for time work, for work to which that rate applies and at the same rate for work (if any) to which that rate does not apply;

(*b*) in the case of a piece worker, at the appropriate general minimum time rate that would have been applicable to him if he had been employed as a time worker.

In this definition "appropriate proportion" means—

where the worker's normal working week is six days ...	one-sixth
,, ,, ,, ,, ,, ,, five days or less	one-fifth.

"statutory minimum remuneration" means minimum remuneration (other than holiday remuneration) fixed by a wages regulation order made by the Secretary of State to give effect to proposals submitted to him by the General Waste Materials Reclamation Wages Council (Great Britain).

"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 28th July 1975, 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 (General Waste Materials Reclamation) (Holidays) Order 1973 (Order D.B. (79)) as amended by the Wages Regulation (General Waste Materials Reclamation) Order 1974 (Order D.B. (81)). Order D.B. (79) is revoked.

New provisions are printed in italics.

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