STATUTORY INSTRUMENTS

1974 No. 811

WAGES COUNCILS

The Wages Regulation (Hat, Cap and Millinery) (Holidays) Order 1974

Made - - - -	*7th May* 1974
Coming into Operation	*5th June* 1974

Whereas the Secretary of State has received from the Hat, Cap and Millinery 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**), as modified by Article 2 of the Counter-Inflation (Modification of Wages Councils Act 1959) Order 1973(**b**), and now vested in him(**c**), 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 (Hat, Cap and Millinery) (Holidays) Order 1974.

2.—(1) In this Order the expression " the specified date " means the 5th June 1974, 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(**d**) 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 (Hat, Cap and Millinery) (Holidays) Order 1968(**e**) shall cease to have effect.

Signed by order of the Secretary of State.

7th May 1974.

W. H. Marsh,
Assistant Secretary,
Department of Employment.

Article 3

SCHEDULE

The following holidays and holiday remuneration shall be substituted for the holidays and holiday remuneration set out in the Wages Regulation (Hat, Cap and Millinery) (Holidays) Order 1968 (Order H.C.M. (14)).

(**a**) 1959 c. 69.
(**b**) S.I. 1973/661 (1973 I, p. 2141).
(**c**) S.I. 1959/1769, 1968/729 (1959 I, p. 1795; 1968 II, p. 2108).
(**d**) 1889 c. 63.
(**e**) S.I. 1968/1563 (1968 III, p. 4360).

PART I

APPLICATION

1. This Schedule applies to every worker (other than a home-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 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*) in England and Wales—

(i) Christmas Day ; 26th December if it be not a Sunday, 27th December in a year when 25th or 26th December is a Sunday ; Good Friday ; Easter Monday ; the last Monday in May ; the last Monday in August ; (or, where another day is substituted for any of the above days by national proclamation, that day) and one other day to be agreed between the employer and worker ; or

(ii) in the case of each of the said days a day substituted by the employer therefor, being a day recognised by a local custom as a day of holiday in substitution for the said day.

(*b*) In Scotland—

(i) New Year's Day, if it be not a Sunday or, if it be a Sunday, 2nd January ;
the local Spring holiday ;
the local Autumn holiday ;
Provided that, where in any establishment it is not the custom or practice to observe all or any of such days as holidays, another day or other days, not fewer in number, may, by agreement between the employer and the worker, be substituted therefor ; and

(ii) four other days to be agreed between the employer and the worker.

(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 such 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 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 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 6.

PART III

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 the date on which this Schedule becomes effective and 30th September 1974, and in each succeeding year between 6th April and 30th September 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 one 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:—

Workers with a normal working week of 6 days		Workers with a normal working week of 5 days or less	
Period of employment	Duration of annual holiday	Period of employment	Duration of annual holiday
At least 48 weeks	*20 days*	*At least 48 weeks ... ...*	*17 days*
„ „ *46* „	*19* „	„ „ *46* „	*16* „
„ „ *44* „	*18* „	„ „ *44* „	*15* „
„ „ *42* „	*17* „	„ „ *42* „	*14* „
„ „ *40* „	*16* „	„ „ *40* „	*13* „
„ „ *38* „	*15* „	„ „ *38* „	*12* „
„ „ *36* „	*14* „	„ „ 36 „	11 „
„ „ *34* „	*13* „	„ „ 33 „	10 „
„ „ *32* „	*12* „	„ „ 30 „	9 „
„ „ *30* „	*11* „	„ „ 27 „	8 „
„ „ *28* „	*10* „	„ „ 24 „	7 „
„ „ *26* „	9 „	„ „ 21 „	6 „
„ „ *24* „	*8* „	„ „ 18 „	5 „
„ „ 22 „	7 „	„ „ 15 „	4 „
„ „ 19 „	6 „	„ „ 12 „	3 „
„ „ 16 „	5 „	„ „ 8 „	2 „
„ „ 13 „	4 „	„ „ 4 „	1 day
„ „ 10 „	3 „		
„ „ 7 „	2 „		
„ „ 4 „	1 day		

(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 any one of the periods of employment during the 12 months immediately preceding 6th April 1974 and during the 12 months immediately preceding 6th April in any succeeding year shall not exceed in the aggregate three times the number of days constituting the worker's normal working week *plus two days*;

(*b*) where in any year a worker does not wish to take his annual holiday or part thereof during the current holiday season and, before the expiration of such holiday season, enters into an agreement in writing with his employer that days of holiday not exceeding twice the number of days constituting his normal working week shall be allowed after the expiration of the current holiday season but before the commencement of the next following holiday season, then any day or days of annual holiday so allowed shall be treated as having been allowed during the current holiday season;

(*c*) the duration of the worker's annual holiday during the holiday season ending on 30th September 1974 shall be reduced by any days of annual holiday with pay (not being days of customary holiday) which have been allowed to him by the employer under the provisions of Order H.C.M. (14), between 6th April 1974 and the date on which this Schedule becomes effective.

(3) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1974 the period commencing on 6th April 1974, and ending on 30th September 1974, and in relation to each subsequent year, the period commencing on 6th April 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 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 within the period ending on 8th January immediately following the holiday season.

(3) Where a day of holiday allowed to a worker under Part II of this Schedule immediately precedes a period of annual holiday or occurs during such a period 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 (other than the worker's weekly short day) falling within the holiday season, or, by agreement between the employer and the worker or his representative, after the holiday season and before the beginning of the next following holiday season.

5. An employer shall give to a worker reasonable notice of the commencing date or dates and of the duration 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

CUSTOMARY HOLIDAYS

6.—(1) For each day of holiday (including a holiday falling on a Saturday) to which a worker is entitled under Part II of this Schedule he shall be paid by the employer as holiday remuneration whichever of the following amounts is the greater:—

(*a*) (i) in the case of a worker employed in the retail branch of the trade whose normal working week exceeds five days, two-elevenths ... ...
(ii) in the case of all other workers, one-fifth ... ...

} of the average weekly earnings of the worker during the 12 months ended on 5th April immediately preceding the holiday, such average weekly earnings to be determined by dividing, by the number of weeks of employment with the employer during the said period, the total remuneration paid to him by the employer during that period:

Provided that when Good Friday or Easter Monday in England and Wales or the local Spring holiday in Scotland (or days substituted therefor under sub-paragraph (2) of paragraph 2) fall after 5th April in any year, the holiday remuneration for any such holiday under this sub-paragraph shall be two-elevenths or one-fifth, as the case may require, of the average weekly earnings

of the worker during the 12 months ended on 5th April in the preceding calendar year,

or (*b*) an amount 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 to which statutory minimum remuneration applies:—

(i) in the case of a worker normally employed for more than 30 hours a week, for 8 hours, or

(ii) in the case of a worker normally employed for 30 hours a week or less, for 4 hours.

(2) Where a worker normally works in the week on every weekday except Saturday, he shall be paid in respect of any Saturday on which he would have been entitled to a holiday under Part II of this Schedule if it had been a day on which he normally worked, a sum equivalent to the holiday remuneration he would have been entitled to receive had he been allowed a holiday on that day.

(3) 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 pay week including the holiday are paid.

(4) The holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid on the pay day on which the wages for the week including that holiday in lieu are paid: 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 such holiday in lieu of a customary holiday.

ANNUAL HOLIDAY

7.—(1) Subject to the provisions of paragraph 8, a worker entitled to be allowed an annual holiday under this Schedule shall be paid as holiday remuneration by his employer in respect thereof, on the last pay day preceding such annual holiday whichever of the following amounts is the greater:—

(*a*) an amount equal to *seventeen two hundred and sixtieths* of the total remuneration paid by the employer to the worker in the 12 months ended on 5th April immediately preceding the holiday season ; or

(*b*) one day's holiday pay (as defined in paragraph 12) 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 under the provisions of Order H.C.M. (14)) in respect of employment during any of the periods 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 H.C.M. (14).

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

9.—(1) 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 accrued holiday remuneration in accordance with this paragraph.

(2) Accrued holiday remuneration shall be payable in accordance with the following table if the worker has in the 12 months commencing on 6th April 1973, and thereafter in any period of 12 months commencing on 6th April been employed for any of the periods of employment (calculated in accordance with the provisions of paragraph 10) specified in that table.

(3) Accrued holiday remuneration is not payable in respect of any period of employment for which the worker has been allowed or become entitled to be allowed an annual holiday under this Schedule.

(4) Subject to the provisions of paragraph 8, where a worker has been allowed in a holiday season part only of the annual holiday for which he has qualified under this Schedule or under Order H.C.M. (14) and his employment is terminated before he becomes entitled to the rest of that holiday the accrued holiday remuneration payable shall be:—

(*a*) in the case of a worker who has qualified for days of annual holiday exceeding twice the number of days constituting his normal working week and who has been allowed as days of annual holiday not less than twice the number of days constituting his normal working week, or, where the circumstances in sub-paragraph (3) of paragraph 4 are applicable, that number of days reduced by one:—

(i) in respect of the days of holiday for which he has qualified during the 12 months ended on 5th April immediately preceding the termination of his employment, an amount equal to the holiday remuneration due in respect thereof calculated in accordance with the provisions of paragraph 7 less the amount received by him in respect of that part of the holiday which has been allowed ; and

(ii) in respect of any period of employment after the said 5th April, the appropriate amount under the following table ;

(*b*) in the case of any other worker, the appropriate amount under the following table in respect of the qualifying period of employment less the amount received by the worker in respect of that part of the holiday which has been allowed.

(5) Any accrued holiday remuneration payable under the provisions of this paragraph 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 H.C.M. (14) in respect of the same period of employment or part thereof.

TABLE OF ACCRUED HOLIDAY REMUNERATION

Column 1 Workers with a normal working week of 6 days		Column 2 Workers with a normal working week of 5 days or less		Column 3
Period of employment	Accrued holiday remuneration	Period of employment	Accrued holiday remuneration	
At least 48 weeks	*Three and one-third times the amount in Col. 3*	*At least 48 weeks*	*Three and two-fifths times the amount in Col. 3*	The amount which the worker would be entitled to receive from his employer, at the date of the termination of his employment, 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 as a time worker at the appropriate rate of statutory minimum remuneration for time work, fixed by a wages regulation order in respect of the worker, for work to which that order applies and at the same rate for work (if any) to which that order does not apply.
,, ,, *46* ,,	*Three and one-sixth times the amount in Col. 3*	,, ,, *46* ,,	*Three and one-fifth times the amount in Col. 3*	
,, ,, *44* ,,	*Three times the amount in Col. 3*	,, ,, *44* ,,	*Three times the amount in Col. 3*	
,, ,, *42* ,,	*Two and five-sixths times the amount in Col. 3*	,, ,, *42* ,,	*Two and four-fifths times the amount in Col. 3*	
,, ,, *40* ,,	*Two and two-thirds times the amount in Col. 3*	,, ,, *40* ,,	*Two and three-fifths times the amount in Col. 3*	
,, ,, *38* ,,	*Two and one-half times the amount in Col. 3*	,, ,, *38* ,,	*Two and two-fifths times the amount in Col. 3*	
,, ,, *36* ,,	*Two and one-third times the amount in Col. 3*	,, ,, 36 ,,	Two and one-fifth times the amount in Col. 3	
,, ,, *34* ,,	*Two and one-sixth times the amount in Col.* 3	,, ,, 33 ,,	Twice the amount in Col. 3	
,, ,, *32* ,,	*Twice the amount in Col. 3*	,, ,, 30 ,,	One and four-fifths times the amount in Col. 3	
,, ,, *30* ,,	*One and five-sixths times the amount in Col. 3*	,, ,, 27 ,,	One and three-fifths times the amount in Col. 3	
,, ,, *28* ,,	*One and two-thirds times the amount in Col. 3*	,, ,, 24 ,,	One and two-fifths times the amount in Col. 3	
,, ,, *26* ,,	*One and one-half times the amount in Col. 3*	,, ,, 21 ,,	One and one-fifth times the amount in Col. 3	
,, ,, *24* ,,	*One and one-third times the amount in Col. 3*	,, ,, 18 ,,	The amount in Col. 3	
,, ,, 22 ,,	One and one-sixth times the amount in Col. 3	,, ,, 15 ,,	Four-fifths of the amount in Col. 3	
,, ,, 19 ,,	The amount in Col. 3	,, ,, 12 ,,	Three-fifths of the amount in Col. 3	
,, ,, 16 ,,	Five-sixths of the amount in Col. 3	,, ,, 8 ,,	Two-fifths of the amount in Col. 3	
,, ,, 13 ,,	Two-thirds of the amount in Col. 3	,, ,, 4 ,,	One-fifth of the amount in Col. 3	
,, ,, 10 ,,	One-half of the amount in Col. 3			
,, ,, 7 ,,	One-third of the amount in Col. 3			
,, ,, 4 ,,	One-sixth the amount in Col. 3			

(6) Notwithstanding the provisions of the foregoing table, the accrued holiday remuneration payable to a worker who has been employed by the employer for the whole of the 12 months ended on 5th April 1974 or of any succeeding period of 12 months ended on 5th April immediately preceding the termination of his employment shall be as follows:—

(*a*) in respect of that 12 months an amount equal to the holiday remuneration for the days of annual holiday for which he has qualified, calculated in accordance with the provisions of sub-paragraph (1) of paragraph 7; and

(*b*) in respect of any period of employment since the said 5th April, the amount calculated in accordance with the foregoing table in this paragraph.

PART V

GENERAL

10. For the purposes of calculating any period of employment entitling a worker to an 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 16 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 16 in any such period as aforesaid); 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 16 in any such period as aforesaid); and

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule, and for the purposes 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 8 hours if the worker is normally employed for more than 30 hours a week or for 4 hours if he is normally employed for 30 hours a week or less, or

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

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

12. 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, in 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 remuneration which the worker would be entitled to receive from his employer at the date of the annual holiday or at the date of the termination of his employment, as the case may require, 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 as a time worker at the appropriate rate of statutory minimum remuneration for time work fixed by a wages regulation order in respect of the worker, for work to which that order applies and at the same rate for work (if any) to which that order 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) which has been fixed by a wages regulation order made by the Secretary of State to give effect to proposals submitted to him by the Council.

" TOTAL REMUNERATION " means any payments paid or payable to the worker under his contract of employment, for time worked or piece work done by him, holiday remuneration, any productivity, long service or other bonus payable to the worker on a weekly, fortnightly or monthly basis and merit payments so payable but does not include any other payments.

" WEEK " means " pay week ".

13. 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 5th June 1974, sets out the holidays which an employer is required to allow to workers in relation to whom the Hat, Cap and Millinery Wages Council (Great Britain) operates and the remuneration payable for those holidays in substitution for the holidays and holiday remuneration fixed by the Wages Regulation (Hat, Cap and Millinery) (Holidays) Order 1968 (Order H.C.M.(14)). Order H.C.M.(14) is revoked.

New provisions are printed in italics.

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