STATUTORY INSTRUMENTS

1969 No. 929

WAGES COUNCILS

The Wages Regulation (Hollow-ware) (Holidays) Order 1969

Made - - - *9th July* 1969

Coming into Operation *4th August* 1969

Whereas the Secretary of State has received from the Hollow-ware 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 (Hollow-ware) (Holidays) Order 1969.

2.—(1) In this Order the expression "the specified date" means the 4th August 1969, 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 (Hollow-ware) (Holidays) Order 1966(**c**) as amended by Schedule 2 to the Wages Regulation (Hollow-ware) Order 1968(**d**) shall cease to have effect.

Signed by order of the Secretary of State.

9th July 1969.

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

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 (Hollow-ware) (Holidays) Order 1966 (Order H. (92)) as amended by Schedule 2 to the Wages Regulation (Hollow-ware) Order 1968 (Order H.(96)).

(**a**) 1959 c. 69.
(**b**) 1889 c. 63.
(**c**) S.I. 1966/669 (1966 II, p. 1506).
(**d**) S.I. 1968/626 (1968 I, p. 1464).

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 next following sub-paragraph, provided that the worker:—

(*a*) was in his employment on the day immediately preceding the customary holiday;

(*b*) has performed some work for the employer during the period of 12 weeks immediately preceding the customary holiday; and

(*c*) (unless excused by the employer or absent by reason of the proved illness of the worker) has worked throughout the last working day on which work was available to him before 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) August Bank Holiday and two 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;

(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
five 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 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 fixed by agreement between the employer and the worker or his agent.

(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 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 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) In addition to the holidays specified in Part II of this Schedule, and subject to the provisions of paragraph 4, an employer shall—

(*a*) between the date on which the provisions of this Schedule become effective and 31st October 1969, 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 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	
Column 1 Period of employment	Column 2 Duration of annual holiday	Column 1 Period of employment	Column 2 Duration of annual holiday
Not less than 48 weeks	*13 days*	*Not less than 48 weeks ... ...*	*11 days*
Not less than 44 weeks but less than 48 weeks	11 „	Not less than 43 weeks but less than 48 weeks ...	9 „
„ „ „ 40 „ „ „ „ 44 „	10 „	„ „ „ 38 „ „ „ „ 43 „ ...	8 „
„ „ „ 36 „ „ „ „ 40 „	9 „	„ „ „ 33 „ „ „ „ 38 „ ...	7 „
„ „ „ 32 „ „ „ „ 36 „	8 „	„ „ „ 28 „ „ „ „ 33 „ ...	6 „
„ „ „ 28 „ „ „ „ 32 „	7 „	„ „ „ 24 „ „ „ „ 28 „ ...	5 „
„ „ „ 24 „ „ „ „ 28 „	6 „	„ „ „ 19 „ „ „ „ 24 „ ...	4 „
„ „ „ 20 „ „ „ „ 24 „	5 „	„ „ „ 14 „ „ „ „ 19 „ ...	3 „
„ „ „ 16 „ „ „ „ 20 „	4 „	„ „ „ 9 „ „ „ „ 14 „ ...	2 „
„ „ „ 12 „ „ „ „ 16 „	3 „	„ „ „ 4 „ „ „ „ 9 „ ...	1 day
„ „ „ 8 „ „ „ „ 12 „	2 „		
„ „ „ 4 „ „ „ „ 8 „	1 day		

(*b*) between 1st April 1970 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 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 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	
Column 1 Period of employment	Column 2 Duration of annual holiday	Column 1 Period of employment	Column 2 Duration of annual holiday
Not less than 48 weeks	*14 days*	*Not less than 48 weeks*	*12 days*
Not less than 44 weeks but less than 48 weeks	11 „	Not less than 43 weeks but less than 48 weeks ...	9 „
„ „ „ 40 „ „ „ „ 44 „	10 „	„ „ „ 38 „ „ „ „ 43 „ ...	8 „
„ „ „ 36 „ „ „ „ 40 „	9 „	„ „ „ 33 „ „ „ „ 38 „ ...	7 „
„ „ „ 32 „ „ „ „ 36 „	8 „	„ „ „ 28 „ „ „ „ 33 „ ...	6 „
„ „ „ 28 „ „ „ „ 32 „	7 „	„ „ „ 24 „ „ „ „ 28 „ ...	5 „
„ „ „ 24 „ „ „ „ 28 „	6 „	„ „ „ 19 „ „ „ „ 24 „ ...	4 „
„ „ „ 20 „ „ „ „ 24 „	5 „	„ „ „ 14 „ „ „ „ 19 „ ...	3 „
„ „ „ 16 „ „ „ „ 20 „	4 „	„ „ „ 9 „ „ „ „ 14 „ ...	2 „
„ „ „ 12 „ „ „ „ 16 „	3 „	„ „ „ 4 „ „ „ „ 9 „ ...	1 day
„ „ „ 8 „ „ „ „ 12 „	2 „		
„ „ „ 4 „ „ „ „ 8 „	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 a period of employment during the 12 months immediately preceding 1st April 1969 shall not exceed in the aggregate twice the number of days constituting the worker's normal working week *plus one day;*

(*b*) 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 during the 12 months immediately preceding 1st April in any succeeding year shall not exceed in the aggregate twice the number of days constituting the worker's normal working week *plus two days.*

(3) the duration of the worker's annual holiday during the holiday season ending on 31st October 1969 shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order H. (92) between 1st April 1969 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 1969 the period commencing on 1st April 1969, and ending on 31st October 1969, 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 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 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) (*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 separate 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 after consultation with the worker, either during the holiday season or before the beginning of the next following 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 in the holiday season, or by agreement between the employer and the worker or his representative, on any working day before the beginning of the next following holiday season.*

(4) Subject to the foregoing provisions 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) 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, calculated at the general minimum time rate applicable to the worker (or which would be applicable if he were a time worker) increased by 17½ per cent., if the day had not been a day of holiday and he had been employed on work entitling him to statutory minimum remuneration for the time normally 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 presents himself for employment at the usual starting hour on the first working day following the holiday and works throughout that day or, if he fails to do so, failure is by reason of his proved illness or with the consent of the employer.

(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 pay week including the first working day following the customary holiday are paid.

(3) 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 pay week including the first working day following that holiday in lieu of a customary holiday 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 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 the 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 or with Order H. (92) 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. (92).

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 (hereinafter referred to as the "termination date") 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 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 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 eight hours and has performed some work for which statutory minimum remuneration is payable;

(*b*) he has been absent throughout the week or has worked for the employer for less than eight 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 reasons shall not exceed eight weeks at any one time in the period of 12 months immediately preceding the commencement of the holiday season;

(*c*) he has been suspended throughout the week owing to shortage of work 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 H. (92), 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 on that day of the week for the employer 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 worker's first period of annual holiday or immediately preceding 17th October if no part of the annual holiday has been allowed before that date 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 where the holiday is allowed in more than one period at the date of the first period) or at the termination date, 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 general minimum time rate applicable to the worker (or which would be applicable if he were a time worker), increased by 17½ per cent., for work for which statutory minimum remuneration is payable and at the same rate (increased as aforesaid) for any work for which such remuneration is not payable, 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 made by the Secretary of State to give effect to the proposals submitted to her by the Council.

"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 4th August 1969, sets out the holidays which an employer is required to allow to workers and the remuneration payable to such workers for those holidays, in substitution for the holidays and holiday remuneration fixed by the Wages Regulation (Hollow-ware) (Holidays) Order 1966 (Order H. (92)), as amended by Schedule 2 to the Wages Regulation (Hollow-ware) Order 1968 (Order H. (96)). Order H.92 is revoked.

New provisions are printed in italics.