STATUTORY INSTRUMENTS

1972 No. 819

WAGES COUNCILS

The Wages Regulation (Keg and Drum) (Holidays) Order 1972

Made - - -	*24th May* 1972
Coming into Operation	*21st June* 1972

Whereas the Secretary of State has received from the Keg and Drum Wages Council (Great Britain) the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Secretary of State in exercise of his powers under 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 (Keg and Drum) (Holidays) Order 1972.

2.—(1) In this Order the expression "the specified date" means the 21st June 1972, 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 (Keg and Drum) (Holidays) Order 1970(**c**), as amended by Schedule 2 to the Wages Regulation (Keg and Drum) Order 1971(**d**), shall cease to have effect.

Signed by Order of the Secretary of State.

24th May 1972.

R. R. D. McIntosh,
Deputy Secretary,
Department of Employment.

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 (Keg and Drum) (Holidays) Order 1970 (hereinafter referred to as "Order K.D. (85)"), as amended by Schedule 2 to the Wages Regulation (Keg and Drum) Order 1971 (Order K.D. (87)).

(**a**) 1959 c. 69.
(**b**) 1889 c. 63.
(**c**) S.I. 1970/703 (1970 II, p. 2226).
(**d**) S.I. 1971/885 (1971 II, p. 2606).

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 on the day immediately preceding the customary holiday 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 week day as may be appointed by national proclamation, or, if none is so appointed, the next following Tuesday), Boxing Day, *New Year's Day (or, if New Year's Day falls on a Sunday, the following Monday)*, 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
four other days (being days on which the worker normally works for the employer) 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 a day recognised by local custom as a day of holiday in substitution for the said day.

(3) Where in England and Wales, Christmas Day or Boxing Day, or in Scotland, New Year's Day (or any day substituted for any one of these days under the provisions of (*b*) of sub-paragraph (2) of this paragraph) falls on a Saturday, the employer shall allow—

(*a*) to a worker who normally works for the employer on five days a week but does not normally work for him on a Saturday, instead of the customary holiday, a holiday on a day on which the worker normally works for the employer during the week immediately following the customary holiday;

(*b*) to a worker who normally works for the employer on six days a week (including Saturday) but normally works on a Saturday for not more than 4½ hours exclusive of overtime, in addition to the customary holiday a holiday on a Saturday during the two weeks immediately following the customary holiday:

Provided that a worker shall not be entitled to a holiday in pursuance of this sub-paragraph—

(i) if he is not qualified under sub-paragraph (1) of this paragraph to be allowed the customary holiday and would not be so qualified if he normally worked for the employer on a Saturday;

or (ii) if, in the case of a worker to whom (*a*) of this sub-paragraph applies, he has been allowed a day of holiday (not being a customary holiday or a day of annual holiday) on a day on which he would normally work for the employer in the week immediately preceding the customary holiday and has been paid for that holiday not less than the amount to which he would have been entitled had the day been a customary holiday allowed to him under sub-paragraph (1) of this paragraph;

or (iii) if, in the case of a worker to whom (*b*) of this sub-paragraph applies, he has been allowed not less than 4½ hours off from work during his normal working hours on a day on which he would normally work for the employer (not being a customary holiday or a day of annual holiday) in the week immediately preceding or in the week immediately following the customary holiday and has been paid in respect of the hours off so allowed to him not less than the appropriate rate of statutory minimum remuneration to which he would have been entitled if he had worked throughout those hours on his usual work.

(4) Notwithstanding the provisions of sub-paragraph (1) of this paragraph, an employer may (unless it is not lawful for him to do so) require a worker who is otherwise qualified to be allowed a customary holiday to work thereon and where he does so the employer shall allow the worker a day's holiday (hereinafter referred to as a "holiday in lieu of a customary holiday") on a day on which he normally works for the employer within the three weeks immediately following the customary holiday.

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 between the date on which the provisions of this Schedule become effective and 31st October 1972, 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) specified below, and the duration of the annual holiday shall in the case of each such worker be related to that period as follws:—

Period of employment	Duration of annual holiday for workers with a normal working week of—		
	Six days	Five days	Four days or less
Column 1	Column 2	Column 3	Column 4
At least 48 weeks	18 days	15 days	12 days
„ „ 44 „	16 „	13 „	11 „
„ „ 40 „	15 „	12 „	10 „
„ „ 36 „	13 „	11 „	9 „
„ „ 32 „	12 „	10 „	8 „
„ „ 28 „	10 „	8 „	7 „
„ „ 24 „	9 „	7 „	6 „
„ „ 20 „	7 „	6 „	5 „
„ „ 16 „	6 „	5 „	4 „
„ „ 12 „	4 „	3 „	3 „
„ „ 8 „	3 „	2 „	2 „
„ „ 4 „	1 day	1 day	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 any holiday season 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 in the holiday season ending on 31st October 1972 shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order K.D. (85) as amended by Schedule 2 to Order K.D. (87) between 1st April 1972 and the date on which the provisions of this Schedule become effective.

(3) In this Schedule the expression "holiday season" means, in any year, the period commencing on 1st April and ending on 31st October in that year.

4.—(1) 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, and days of annual holiday shall be treated as consecutive notwithstanding that a Sunday, or a day of holiday allowed under Part II of this Schedule, intervenes:

Provided that where the duration of an annual holiday which an employer is required to allow to a worker exceeds the number of days constituting the worker's normal working week the said holiday may be allowed in three separate periods of such consecutive working days, and in that event, notwithstanding the foregoing provisions of this Schedule, the annual holiday shall be allowed as follows:—

(*a*) as to one period, not being less than the period constituting the worker's normal working week, during the holiday season;

(*b*) as to a second period, during the holiday season or within the period ending on 31st March immediately following the holiday season; and

(*c*) as to any days exceeding twice the number of days constituting the worker's normal working week, on days to be fixed by the employer, either during the holiday season or within the period ending on 31st March immediately following the holiday season.

(2) Subject to the provisions of sub-paragraph (1) 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 either individually to the worker or by the posting of a notice in the place where the workers 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 25 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 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 the worker) presents himself for employment at the usual commencing hour on the first working day following the holiday and works his normal hours of work on that day.

(2) Holiday remuneration in respect of any holiday allowed under Part II of this Schedule shall be paid to the worker not later than the pay day on which the 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 or a holiday under sub-paragraph (3) of paragraph 2, 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 the proviso to 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 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 of this Schedule or with Order K.D. (85) as amended 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 had been deducted from a previous payment of holiday remuneration made under the provisions of this Schedule or of Order K.D. (85) as amended.

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 ended on the 31st day of the preceding 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 after 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 24 hours and has performed some work for which statutory minimum remuneration is payable; or

(*b*) he has been absent throughout the week, or he has worked for the employer for less than 24 hours, 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 six in the aggregate in the period of 12 months immediately preceding the commencement of the holiday season; or

(*c*) he is absent from work 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 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, 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.

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 during 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 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.

"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 25 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 proposals submitted to him by the Keg and Drum Wages Council (Great Britain).

"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 21st June 1972, 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 (Keg and Drum) (Holidays) Order 1970 (Order K.D. (85)), as amended by Schedule 2 to the Wages Regulation (Keg and Drum) Order 1971 (Order K.D. (87)). Order K.D. (85) is revoked.

New provisions are printed in italics.

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