STATUTORY INSTRUMENTS

1971 No. 29

WAGES COUNCILS

The Wages Regulation (Licensed Non-residential Establishment) (Amendment) Order 1971

Made - - -	11*th January* 1971
Coming into Operation	14*th February* 1971

Whereas the Secretary of State has received from the Licensed Non-residential Establishment Wages Council 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 (Licensed Non-residential Establishment) (Amendment) Order 1971.

2.—(1) In this Order the expression "the specified date" means the 14th February 1971, 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.

3. The wages regulation proposals set out in the Schedule hereto shall have effect as from the specified date.

Signed by order of the Secretary of State.
11th January 1971.

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

(a) 1959 c. 69. (b) 1889 c. 63.

Article 3

SCHEDULE

The Wages Regulation (Licensed Non-residential Establishment) Order 1970(a) (Order L.N.R. (79)), shall have effect as if in the Schedule thereto for Part II there were substituted the following Part:—

"PART II

ANNUAL HOLIDAY AND HOLIDAY REMUNERATION

ANNUAL HOLIDAY

9. Subject to the provisions of this paragraph and of paragraph 11, an employer shall, between 1st March 1971 and 31st October 1971, and between 1st March and 31st October in each subsequent year, allow a holiday (hereinafter referred to as an 'annual holiday') to every worker in his employment to whom this Schedule applies who during the 12 months immediately preceding the commencement of the holiday season (hereinafter referred to as 'the qualifying period') was employed for any of the periods specified below, and the duration of the annual holiday shall be related to the period of the worker's employment during that 12 months as follows:—

Period of employment	Duration of holiday
At least 4 weeks	1 day
" " 8 "	2 days
" " 12 "	3 "
" " 16 "	4 "
" " 20 "	5 "
" " *24 weeks*	*7 days*
" " *28* "	*9* "
" " *32* "	*11* "
" " *36* "	*13* "
" " *40* "	*15* "
" " *44* "	*16* "
" " *48* "	*18* "

Provided that—

(1) 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 March 1971 and during the 12 months immediately preceding 1st March in any succeeding year shall not exceed *three times* the number constituting the worker's normal working week;

(2) in this Schedule the expression 'holiday season' means in relation to the year 1971 the period commencing on 1st March 1971 and ending on 31st October 1971, and in each succeeding year, the period commencing on 1st March and ending on 31st October of the same year.

10. An annual holiday shall be allowed on consecutive working days and days of holiday shall be treated as consecutive notwithstanding that the weekly day of rest or a public holiday or a day of holiday in lieu of a public holiday intervenes:

Provided that—

(*a*) where a worker is entitled to more days of annual holiday than the number of days constituting his normal working week *but not more than twice that number* his annual holiday may be allowed in two separate periods of which one shall consist of at least the number of days constituting his normal working week, and

(*b*) *where a worker is entitled to more days of annual holiday than twice the number of days constituting his normal working week his annual holiday may be allowed as follows:—*

(*i*) *as to the period comprising twice the number of days constituting his normal working week in accordance with (a) of this paragraph; and*

(*ii*) *as to any additional days, on working days which need not be consecutive, to be fixed by agreement between the employer and the worker or his representative on any working day or days in the holiday season or before the beginning of the next following holiday season.*

11. Notwithstanding the provisions of paragraph 9, the Council may vary the holiday season as there set out if they receive an application for that purpose from an employer

(a) S.I. 1970/1105 (1970 II, p. 3474).

and are satisfied that it is reasonable to do so to meet special circumstances. Such variation may provide for the commencement of the holiday season earlier than 1st March or its extension beyond 31st October. An application relating to the commencement of the holiday season shall be made to the Council not less than six weeks before the operative date and an application to extend the duration of the holiday season, before 1st July. Any such alteration in the holiday season shall not become effective until notice of the decision of the Council has been communicated to the employer concerned. In the case of any variation of the holiday season under this provision, the qualifying period in respect thereof shall be that stated in paragraph 9.

12. An employer shall give to a worker reasonable notice of the commencing date and duration of his annual holiday and such notice may be given individually to a worker or by the posting of a notice in the place where a worker is employed.

13. Where any day of annual 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.

REMUNERATION FOR ANNUAL HOLIDAY

14. Holiday remuneration for annual holiday shall be paid on the last pay day preceding the holiday as follows:—

For each day of holiday a worker is allowed in accordance with the provisions of paragraph 9 not less than one-sixth of the amount he would be entitled to receive from his employer under the arrangement current immediately before the holiday if he worked his normal weekly hours of work, exclusive of overtime, with the addition in the case of a worker who is normally supplied with full board, meals or lodging of one-sixth of the following amounts for each day of holiday:—

(1) 47s. 6d. in the case of a worker normally supplied by his employer with full board and lodging;

(2) 38s. 6d. in the case of a worker normally supplied by his employer with 2 meals only a day and lodging;

(3) 28s. 6d. in the case of a worker normally supplied by his employer with 1 meal only a day and lodging;

(4) 29s. 6d. in the case of a worker normally supplied by his employer with full board but no lodging;

(5) 20s. 6d. in the case of a worker normally supplied by his employer with 2 meals only a day but no lodging;

(6) 10s. 6d. in the case of a worker normally supplied by his employer with 1 meal only a day but no lodging;

(7) 18s. 0d. in the case of a regular worker normally supplied by his employer with lodging but with no meals:

Provided that—

where under the provisions of paragraph 10 an annual holiday is taken in more than one period, the holiday remuneration shall be apportioned accordingly.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

15. If a worker ceases to be employed by an employer, the employer shall, immediately on termination of his employment (hereinafter referred to as the 'termination date'), pay to the worker accrued holiday remuneration in accordance with the provisions of paragraphs 16 and 17.

16. *Subject to the provisions of this paragraph and of paragraph 17, accrued holiday remuneration shall be payable to a worker in respect of his employment with the employer in the 12 months immediately preceding the termination date. The amount of the accrued holiday remuneration shall be a sum equal to the holiday remuneration which would have been payable if that period of 12 months had been the qualifying period for an annual holiday and if the worker could have been allowed an annual holiday in respect of that employment at the time of leaving it.*

Provided that—

(1) no worker shall be entitled to the payment by his employer of accrued holiday remuneration if—

(*a*) he is dismissed on either of the following grounds, that is to say—

(i) dishonesty, or

(ii) misconduct involving contravention of the licensing laws,

and is so informed by the employer at the time of dismissal; or

(*b*) he leaves his employment without having notified his employer, not less than one week before terminating his employment, of his intention to do so;

(2) the amount of any accrued holiday remuneration payable at the termination date shall be reduced by the amount of any sum paid by the employer to the worker—

(*a*) as accrued holiday remuneration under the provisions of this Schedule or of Order L.N.R. (79) in so far as such sum is attributable to the period for which the accrued holiday remuneration is payable;

(*b*) in respect of any day or days of holiday for which the worker had not qualified under the provisions of this Schedule or of Order L.N.R. (79) and allowed during the period in respect of which the accrued holiday remuneration is payable;

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

17. Where a worker has been allowed in a holiday season part only of the annual holiday for which he has qualified under this Schedule and his employment is terminated before he becomes entitled to the rest of that holiday, the accrued holiday remuneration payable shall be the appropriate amount calculated in accordance with the provisions of paragraph 16:—

(1) in respect of his employment with the employer during the qualifying period, less the holiday remuneration received by the worker in respect of that part of the holiday which has been allowed, and

(2) in respect of the period of his employment since the end of the qualifying period immediately preceding the termination date.

18. Where under the provisions of this Schedule or of Order L.N.R. (79) any accrued holiday remuneration has been paid by the employer to the worker prior to the allowance of an annual holiday in accordance with the provisions of this Schedule, the amount of holiday remuneration payable by the employer in respect of the said annual holiday under the provisions of paragraph 14 shall be reduced by the amount of any previous payment of accrued holiday remuneration in so far as it is attributable to any part of the period of employment in respect of which the said holiday has been allowed.

CALCULATION OF EMPLOYMENT

19. For the purpose 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 as having been employed:—

(1) for a week in respect of any week in which he has worked for the employer for not less than 18 hours and has qualified for payment of statutory minimum remuneration;

(2) when absent from work in any of the following circumstances—

(*a*) during annual holiday, public holidays or days in lieu of public holidays;

(*b*) during proved sickness or accident up to and not exceeding 8 weeks in the aggregate during any such period as aforesaid;

(*c*) by leave of the employer."

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which has effect from 14th February 1971, amends the Wages Regulation (Licensed Non-residential Establishment) Order 1970 (L.N.R. (79)) by providing for a third week of annual holiday.

New provisions are printed in italics.