STATUTORY INSTRUMENTS

1973 No. 2076

WAGES COUNCILS

The Wages Regulation (Linen and Cotton Handkerchief etc.) (Holidays) Order 1973

Made - - - *7th December* 1973

Coming into Operation *14th January* 1974

Whereas the Secretary of State has received from the Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods 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 (Linen and Cotton Handkerchief etc.) (Holidays) Order 1973.

2.—(1) In this Order the expression "the specified date" means the 14th January 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 (Linen and Cotton Handkerchief etc.) (Holidays) Order 1969(**e**) shall cease to have effect.

Signed by order of the Secretary of State.
7th December 1973.

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

(**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. 1969/869 (1969 II, p. 2470).

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 (Linen and Cotton Handkerchief etc.) (Holidays) Order 1969 (hereinafter referred to as "Order H.L.(73)").

PART I

APPLICATION

1. This Schedule applies to every worker (other than an outworker) for whom statutory minimum remuneration has been fixed.

PART II

CUSTOMARY HOLIDAYS

2.—(1) Subject to the provisions of sub-paragraph (3) of this paragraph an employer shall allow a day of holiday (hereinafter referred to as a "customary holiday") in each year on each of the days specified in the next following sub-paragraph to every worker in his employment to whom this Schedule applies who:—

(*a*) has been in his employment throughout the 8 weeks immediately preceding the said day; and

(*b*) has worked for the employer during the whole or part of that period; and

(*c*) is in his employment on the day of 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;
Good Friday;
Easter Monday; and
the last Monday in May; (or, where a day is substituted for any of the above days by national proclamation, that day);

(ii) in Scotland—

New Year's Day and the day following or, if New Year's Day falls on a Sunday, the following Monday and Tuesday, or, if New Year's Day falls on a Saturday, New Year's Day and the following Monday, the local Spring holiday, the local Autumn holiday, and two other days (being days on which the worker normally works for the employer) in the course of each calendar year, to be fixed by the employer in consultation with the worker or his representative and notified to the worker not less than three weeks in advance;

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 therefor by agreement between the employer and the worker to be allowed within the period of six weeks next ensuing.

(3) Notwithstanding the preceding provisions of this paragraph an employer may (except where in the case of a woman or young person such 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 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 six weeks next ensuing.

PART III

ANNUAL HOLIDAY

3.—(1) Subject to the provisions of paragraph 4, in addition to the holidays specified in Part II of this Schedule an employer shall, between the date on which the provisions of this Schedule become effective and 5th April 1974 and in each succeeding period of 12 months commencing on 6th April 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 ending on 5th April immediately preceding the commencement of the holiday season (hereinafter referred to as the "qualifying period") 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 his period of employment during that 12 months as follows:—

Period of employment	Duration of annual holiday in 12 months commencing 6th April
At least 48 weeks	15 days
„ „ 43 „	9 „
„ „ 38 „	8 „
„ „ 33 „	7 „
„ „ 28 „	6 „
„ „ 24 „	5 „
„ „ 19 „	4 „
„ „ 14 „	3 „
„ „ 9 „	2 „
„ „ 4 „	1 day

(2) Notwithstanding the provisions of the foregoing sub-paragraph the number of days of annual holiday which an employer is required to allow to a worker in the holiday season commencing 6th April 1974 and in each succeeding holiday season commencing on 6th April, shall not exceed in the aggregate three times the number of days constituting the worker's normal working week.

(3) In this Schedule the expression "holiday season" means in relation to the year 1974 the period commencing on 6th April 1974 and ending on 5th April 1975 and each succeeding year, the period commencing on 6th April and ending on the next following 5th April.

(4) The duration of the worker's annual holiday in the holiday season ending on 5th April 1974 shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order H.L. (73) between 6th April 1973 and the date on which the provisions of this Schedule become effective.

4.—(1) Subject to the provisions of this paragraph an annual holiday under this Schedule shall be allowed in accordance with an agreement between the employer and the worker or his representative on consecutive working days being days on which the worker normally works for the employer, and days of annual holiday shall be treated as consecutive notwithstanding that a holiday under the provisions of Part II of this Schedule 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 in the holiday season 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; and

(ii) as to any additional days, on working days being days on which the worker normally works for the employer.

(3) 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. The employer shall give to the worker notice of the commencing date and duration of his annual holiday either individually or by a notice which the worker has reasonable opportunities of reading in the course of his employment or which is reasonably accessible to him in some other way. Such notice shall be given not later than the 31st December immediately preceding the annual holiday or when the worker commences employment with the employer, whichever is the later.

PART IV

HOLIDAY REMUNERATION

A.—CUSTOMARY HOLIDAYS AND HOLIDAYS IN LIEU OF CUSTOMARY HOLIDAYS

6.—(1) Subject to the provisions of this paragraph, for each day allowed as a holiday under Part II of this Schedule the worker shall be paid by his employer the following remuneration:—

(*a*) in respect of days allowed in the holiday season commencing on 6th April 1973 and each succeeding holiday season, in the case of a worker who has been in the employment of the employer for the whole of the 12 months ending on 5th April immediately preceding, an amount equal to one-fifteenth of 5·8 per cent of his total remuneration (determined in accordance with paragraph 11) during that period;

(*b*) in the case of a worker who has been in the employment of the employer for any lesser period, one-fifth of his average weekly earnings, such average weekly earnings to be determined by dividing the worker's total remuneration (determined in accordance with paragraph 11) by the number of weeks of employment (calculated in accordance with paragraph 10).

(2) Subject to the provisions of sub-paragraphs (3) and (4) of this paragraph, the holiday remuneration in respect of any holiday allowed under Part II of this Schedule shall be paid by the employer to the worker on the pay day on which wages are paid for the week including the holiday.

(3) Where a worker ceases to be employed before being allowed a holiday in lieu of a customary holiday to which he has become entitled he shall be paid the holiday remuneration for that day immediately on the termination of his employment and in such a case sub-paragraph (4) of this paragraph shall not apply.

(4) Payment of remuneration in respect of the said holiday is subject to the condition that the worker (unless excused by the employer or absent by reason of proved incapacity due to sickness or injury) works for the employer the number of hours ordinarily worked by him or such lesser number of hours as may be required by the employer, on the first working day on which work is available to him following the holiday.

B. ANNUAL HOLIDAY

7. (1) Subject to the provisions of this paragraph and of paragraph 8, a worker qualified to be allowed an annual holiday under Part III of this Schedule shall be paid as holiday remuneration by his employer in respect thereof, on the last pay day preceding such annual holiday in relation to the holiday season commencing

6th April 1973, and to each succeeding holiday season, an amount equal to 5·8 per cent of his total remuneration (determined in accordance with paragraph 11) during the qualifying period.

(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 H.L. (73)) 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.L. (73).

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 called "the termination date"), pay to the worker as accrued holiday remuneration:—

(1) in respect of employment in the 12 months up to and including the 5th April immediately preceding the termination date, 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 of at least four weeks duration since the said 5th 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.

PART V

GENERAL

10. For the purposes of calculating any period of employment qualifying a worker for a holiday under this Schedule, the worker shall be treated:—

(1) as if he were employed for a week in respect of any week during the qualifying period in which—

(*a*) he has worked for the employer on at least three days and has performed some work for which statutory minimum remuneration is payable and any absence from work on the other days of the week is with the consent of the employer;

(*b*) he has been absent throughout the week or worked less than three days by reason of proved incapacity due to sickness or injury and has returned to the employment of the employer on the termination of the period of absence:

Provided that the number of weeks which may be so treated as weeks of employment shall not exceed:—

(i) 26 weeks in the case of proved incapacity in respect of which the worker is entitled to injury benefit under the National Insurance (Industrial Injuries) Act 1965(**a**);

and (ii) 8 weeks in the case of any other proved incapacity;

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule.

(**a**) 1965 c. 52.

11. A worker's total remuneration shall include:—

(1) all payments paid or payable to the worker by the employer in respect of his employment except:—

(*a*) payments by way of annual holiday remuneration;

(*b*) payments by way of accrued holiday remuneration; and

(*c*) payments in respect of any period of absence from work by reason of incapacity due to sickness or injury; and

(2) in respect of any period of absence which under the provisions of sub-paragraph (1)(*b*) of paragraph 10 is to be treated as a period of employment, the amount to which he would have been entitled if he had worked during that period as a time worker for the number of daily hours normally worked by him.

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 during the qualifying period or, where under paragraph 9 accrued holiday remuneration is payable on the termination of the employment, in 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.

"OUTWORKER" means a worker who works in his own home or in any other place not under the control or management of the employer.

"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 Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods Wages Council (Great Britain).

"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 14th January 1974, sets out the holidays to be allowed to workers in relation to whom the Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods Wages Council (Great Britain) operates and the remuneration payable for those holidays. It also amends the provisions relating to customary holidays contained in Order H.L.(73) so as to take account of recent changes in the law and practice relating to public holidays. Order H.L.(73) is revoked.

New provisions are printed in italics.

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