STATUTORY INSTRUMENTS

1968 No. 1422

WAGES COUNCILS

The Wages Regulation (Made-up Textiles) (Holidays) Order 1968

Made - - - 3*rd September* 1968

Coming into Operation 23*rd September* 1968

Whereas the Secretary of State has received from the Made-up Textiles 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 (Made-up Textiles) (Holidays) Order 1968.

2.—(1) In this Order the expression "the specified date" means the 23rd September 1968, 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 (Made-up Textiles) (Holidays) Order 1967(c) shall cease to have effect.

Signed by order of the Secretary of State.

3rd September 1968.

P. H. St. J. Wilson,
Deputy Under Secretary of State,
Department of Employment and Productivity.

(a) 1959 c. 69.
(b) 1889 c. 63.
(c) S.I. 1967/635 (1967 I, p. 1897).

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 (Made-up Textiles) (Holidays) Order 1967 (Order M.T. (61)).

PART I

APPLICATION

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

PART II

CUSTOMARY HOLIDAYS

2.—(1) An employer shall allow to every worker 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 been in his employment for a period of not less than eight weeks 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 prior to the 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, 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 and the following day:

Provided that if New Year's Day falls on a Sunday the holidays shall be the following Monday and Tuesday and if New Year's Day falls on a Saturday the holidays shall be New Year's day and the following Monday;

the local Spring Holiday;

the local Autumn holiday;

two other days (being normal working days for the workers concerned) in the course of a calendar year, to be fixed by the employer and notified to the workers not less than three weeks before the holiday;

or

(*b*) in the case of each of the said days such week day as may be substituted therefor being either—

(i) a day which is by local custom recognised as a day of holiday, or

(ii) a day which falls within three weeks of the day for which it is substituted, and is mutually agreed between the employer and the worker.

(3) Where in England and Wales, Christmas Day or Boxing Day, or in Scotland New Year's Day or the following day (or any day substituted for any one of these days under the provision 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 eight weeks 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 five hours, in addition to the customary holiday, a holiday on a Saturday during the eight 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 four weeks 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 4 hours off from work during his normal working hours on a day on which the worker would normally have worked for the employer (not being a customary holiday or a day of annual holiday) during the ten days immediately preceding the customary holiday and has been paid in respect of the hours off so allowed to him not less than the statutory minimum remuneration to which he would have been entitled as a time worker if he had worked throughout those hours on his usual work.

(4) Notwithstanding the preceding provisions of this paragraph where by reason of the circumstances under which the work is carried on in an establishment the allowing of the customary holiday is rendered impracticable, a worker may be required to work on a customary holiday (except where in the case of a woman or young person such a requirement would be unlawful) and, if so required, shall be paid for all time worked thereon the statutory minimum remuneration appropriate to him for work on a customary holiday.

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 30th September 1968, and between 1st May and 30th September and in each succeeding year, 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 ended on the 5th April immediately preceding the commencement of the holiday season for any of the periods of employment set out in the 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:—

Where the worker's normal working week is 6 days		Where the worker's normal working week is 5 days or less	
Period of employment	Duration of annual holiday	Period of employment	Duration of annual holiday
At least 48 weeks	*15 days*	*At least 48 weeks*	*13 days*
" " *45* "	*14* "	" " *45* "	*12* "
" " *42* "	*13* "	" " *42* "	*11* "
" " *39* "	*12* "	" " *39* "	*10* "
" " *36* "	*11* "	" " *36* "	*9* "
" " *33* "	*10* "	" " *32* "	*8* "
" " *30* "	*9* "	" " *28* "	*7* "
" " *27* "	*8* "	" " *24* "	*6* "
" " *24* "	*7* "	" " *20* "	*5* "
" " *21* "	*6* "	" " *16* "	*4* "
" " *18* "	*5* "	" " *12* "	*3* "
" " *15* "	*4* "	" " *8* "	*2* "
" " 12 "	3 "	" " 4 "	1 day
" " 8 "	2 "		
" " 4 "	1 day		

(2) Notwithstanding the provisions of the last foregoing sub-paragraph, the number of days of annual holiday which an employer is required to allow to a worker in any holiday season, shall not exceed twice the number of days constituting the worker's normal working week, *plus three days.*

(3) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1968, the period commencing on 1st May 1968, and ending on 30th September 1968, and in relation to each subsequent year, the period commencing on 1st May and ending on 30th September in that year.

(4) The duration of the worker's annual holiday in the holiday season in the 12 months ending on 30th September 1968 shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order M.T. (61) between 1st May 1968 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 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 customary holiday on which the worker is not required to 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 workers' 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 the additional day, on a working day, to be fixed by agreement between the employer or his representative, and the worker or his representative, either during the holiday season or within the period ending on 5th April 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 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 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

CUSTOMARY HOLIDAYS

6.—(1) Subject to the provisions of this paragraph, for each day of holiday 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*) one-fifth of the average weekly earnings of the worker during the 12 months ended on the 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 as defined in paragraph 11 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 holidays in Scotland (or days substituted therefor under the provisions of sub-paragraph (2)(*b*) of paragraph 2) fall after 5th April in any year, the holiday remuneration for any such holiday under this sub-paragraph shall be one-fifth of the average weekly earnings of the worker during the 12 months ended on the 5th April in the preceding calendar year;

or (*b*) the amount to which he would have been entitled as a time worker, calculated at the appropriate rate of statutory minimum remuneration, if the day had not been a day of holiday and he had worked on that day on work for which statutory minimum remuneration is payable for the time usually worked by him on that day of the week:

Provided, however, that payment of the said holiday remuneration is subject to the conditions that the worker (*a*) has worked throughout the last working day on which work was available to him preceding the holiday and (*b*) that the worker presents himself for employment at the usual starting hour on the first working day following the holiday and works his normal number of hours that day or, if he fails to do so, failure is by reason of the proved illness of the worker or with the consent of the employer.

(2) 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 first working day following the customary holiday are paid.

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 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 *five per cent.* of the total remuneration as defined in

paragraph 11 paid by the employer to the worker during the 12 months ended on the 5th April immediately preceding the holiday; or,

(*b*) one day's holiday pay (as defined in paragraph 11) in respect of each day of annual holiday.

(2) Where under the provisions of paragraph 4 an annual holiday is taken 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 in accordance with the provisions of Order M.T. (61)), in respect of employment during any of the periods referred to in that paragraph or that Order respectively, 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 M.T.(61).

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, pay to the worker as accrued holiday remuneration:—

(1) in respect of employment in the 12 months up to the preceding 5th April, a sum equal to the holiday remuneration to which the worker would have been entitled under the provisions of (*b*) of sub-paragraph (1) of paragraph 7 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 said 5th April, a sum equal to the holiday remuneration which would have been payable to him under the provisions of (*b*) of sub-paragraph (1) of paragraph 7 if he could have been allowed an annual holiday in respect of that employment at the time of leaving it.

(3) Notwithstanding the provisions of sub-paragraphs (1) and (2) of this paragraph, the accrued holiday remuneration payable to a worker who has been employed by the employer for the whole of the 12 months ended on the 5th April immediately preceding the termination of his employment shall be as follows:—

(*a*) in respect of the 12 months ended on the 5th April preceding the termination of his employment, whichever of the following amounts is the greater—

(i) an amount equal to *five per cent.* of the total remuneration as defined in paragraph 11 paid by the employer to the worker during that period; or

(ii) the amount calculated in accordance with the provisions of sub-paragraph (1) of this paragraph; and

(*b*) in respect of any period of employment after such 5th April, the amount calculated in accordance with the provisions of sub-paragraph (2) of this paragraph.

PART V

GENERAL

10. For the purpose of calculating any period of employment qualifying a worker for a 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*) (i) he has been absent throughout the week, or

(ii) 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 reasons shall not exceed four in the aggregate in the period of 12 months immediately preceding the customary holiday in the case of a customary holiday or 12 months ended on the 5th April immediately preceding the holiday, in the case of an annual holiday; or

(*c*) he has been suspended throughout the week owing to shortage of work but not exceeding 4 weeks in the aggregate in any of the periods of 12 months last mentioned,

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order M.T.(61) 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 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 taken in more than one period, at the date of the first period) or at the termination of the employment, 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 as a time worker at the appropriate rate of statutory minimum remuneration for work for which statutory minimum remuneration is payable and at the same rate 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...	... one-quarter
where the worker's normal working week is three days...	... one-third.

"STATUTORY MINIMUM REMUNERATION" means minimum remuneration (other than holiday remuneration) fixed by a wages regulation order.

"TOTAL REMUNERATION" means any payment 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.

"WAGES REGULATION ORDER" means an order made by the Secretary of State to give effect to wages regulation proposals submitted to her by the Made-up Textiles 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 23rd September 1968, 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 set out in the Wages Regulation (Made-up Textiles) (Holidays) Order 1967 (Order M.T. (61)), which Order is revoked.

New provisions are printed in italics.