STATUTORY INSTRUMENTS

1974 No. 538

WAGES COUNCILS

The Wages Regulation (Ostrich and Fancy Feather and Artificial Flower) (Holidays) Order 1974

Made - - -	*22nd March* 1974
Coming into Operation	*24th April* 1974

Whereas the Secretary of State has received from the Ostrich and Fancy Feather and Artificial Flower 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 (Ostrich and Fancy Feather and Artificial Flower) (Holidays) Order 1974.

2.—(1) In this Order the expression "the specified date" means the 24th April 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 (Ostrich and Fancy Feather and Artificial Flower) (Holidays) Order 1968**(e)** shall cease to have effect.

Signed by order of the Secretary of State.
22nd March 1974.

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. 1968/1927 (1968 III, p. 5226).

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 (Ostrich and Fancy Feather and Artificial Flower) (Holidays) Order 1968 (hereinafter referred to as "Order O.F.(43)").

PART I

APPLICATION

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

(2) For the purposes of this Schedule a homeworker is a worker who works in his own home or in any other place not under the control or management of the employer.

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 two 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 immediately preceding the 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 if it be not a Sunday or if it be a Sunday, 2nd January;* Good Friday; Easter Monday; the last Monday in May; and the last Monday in August; or where a day is substituted for any of the above days by national proclamation, that day;

(ii) in Scotland—

New Year's Day *if it be not a Sunday or, if it be a Sunday, 2nd January;*
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) 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 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 week day on which he would normally work for the employer, within the period of eight weeks next ensuing.

(4) A worker who is required to work on a customary holiday shall be paid:—

(*a*) for all time worked thereon, the statutory minimum remuneration 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) Subject to the provisions of this paragraph and of paragraph 4, in addition to the holidays specified in Part II of this Schedule an employer shall, between 1st May 1974 and 30th September 1974 and in each succeeding year between 1st May and 30th September, 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 5th April 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 his period of employment during that 12 months as follows:—

Period of employment	Duration of annual holiday
At least 48 weeks	15 days
,, ,, 45 ,,	14 ,,
,, ,, 44 ,,	13 ,,
,, ,, 42 ,,	13 ,,
,, ,, 40 ,,	12 ,,
,, ,, 39 ,,	12 ,,
,, ,, 36 ,,	11 ,,
,, ,, 33 ,,	10 ,,
,, ,, 32 ,,	9 ,,
,, ,, 30 ,,	9 ,,
,, ,, 28 ,,	8 ,,
,, ,, 27 ,,	8 ,,
,, ,, 24 ,,	7 ,,
,, ,, 21 ,,	6 ,,
,, ,, 20 ,,	5 ,,
,, ,, 18 ,,	5 ,,
,, ,, 16 ,,	4 ,,
,, ,, 15 ,,	4 ,,
,, ,, 12 ,,	3 ,,
,, ,, 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 respect of a period of employment during the 12 months ending on 5th April 1974 and during the 12 months ending on 5th April in any succeeding year 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 1st May 1974 and ending on 30th September 1974 and, in each succeeding year, the period commencing on 1st May and ending on 30th September of the same year.

4.—(1) Subject to the provisions of this paragraph 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, 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, by agreement between the employer and the worker or his representative, 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 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 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*) the appropriate proportion (as defined in paragraph 11) of the average weekly earnings of the worker during the 12 months ended on 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 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 holiday in Scotland (or days substituted therefor under the provisions of sub-paragraph (2) (*b*) of paragraph 2 or holidays in lieu of such customary holidays) fall after 5th April in any year, the holiday remuneration for any such holiday under this sub-paragraph shall be the appropriate proportion of the average weekly earnings of the worker during the 12 months ended on 5th April in the preceding calendar year; or

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

(2) Notwithstanding the provisions of sub-paragraph (1) of this paragraph, 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, or accident to, the worker) presents himself for employment at the usual starting hour on the first working day following the holiday:

Provided that when two customary holidays occur on successive days (or so that no working day intervenes) the said condition shall apply only to the second customary holiday.

(3) 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 holiday are paid.

(4) 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 week including the 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 if he ceases to be employed before being allowed such holiday in lieu of a customary holiday and in that case the condition specified in sub-paragraph (2) 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 as holiday remuneration by his employer in respect thereof, on the last pay day preceding such annual holiday, whichever of the following sums is the greater:—

(*a*) in respect of the annual holiday to be allowed during the period of 12 months commencing on 1st May 1974 and during the period of 12 months commencing on 1st May in each succeeding year an amount equal to three fifty-seconds of the total remuneration paid by the employer to the worker in the 12 months ended on 5th April immediately preceding the holiday season; 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 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 the provisions of paragraph 9 of this Schedule or under Order O.F. (43)) 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 O.F. (43).

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 5th April immediately preceding the termination of his employment shall be as follows:—

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

(i) an amount equal to three fifty-seconds of the total remuneration as defined in paragraph 11 paid by the employer to the worker during any such 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 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 20 hours and has performed some work for which statutory minimum remuneration is payable;

(*b*) he has been absent throughout the week by reason of the proved illness of, or accident to, the worker but not exceeding four weeks in the aggregate 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 but not exceeding six weeks in the aggregate in such period as aforesaid; and

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order O.F. (43), 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 for the employer 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:—

"appropriate proportion" means—

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

"appropriate rate of statutory minimum remuneration" means—

(*a*) in the case of a time worker, the rate or rates of statutory minimum remuneration applicable to the worker, and

(*b*) in the case of a piece worker, the rate or rates of statutory minimum remuneration which would be applicable to the worker if he were a time worker.

"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—

(i) part of a day shall count as a day;

(ii) 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 (as defined in this paragraph) 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 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 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.

"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 Wages Council.

"total remuneration" means any payments 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.

"week" in paragraphs 2, 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.

13. The revocation by this Order of Order O.F. (43) and the coming into effect of the provisions of this Schedule shall not affect the right of a worker to be allowed, and to receive holiday remuneration for, any such days of annual holiday which his employer was required to allow him before 1st May 1974 under the provisions of paragraph 4 of the Schedule to Order O.F. (43).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order which has effect from 24th April 1974, sets out the holidays which an employer is required to allow to workers in relation to whom the Ostrich and Fancy Feather and Artificial Flower Wages Council (Great Britain) operates and the remuneration payable for those holidays in substitution for the holidays and holiday remuneration fixed by the Wages Regulation (Ostrich and Fancy Feather and Artificial Flower) (Holidays) Order 1968 (Order O.F.(43)) as amended by Schedule 2 of The Wages Regulation (Ostrich and Fancy Feather and Artificial Flower) Order 1973 (S.I. 1973/521) (Order O.F. (49)). Order O.F. (43) is revoked.

New provisions are printed in italics.

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