STATUTORY INSTRUMENTS

1971 No. 1569

WAGES COUNCILS

The Wages Regulation (Paper Box) (Holidays) Order 1971

Made - - - *22nd September* 1971
Coming into Operation *18th October* 1971

Whereas the Secretary of State has received from the Paper Box 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 (Paper Box) (Holidays) Order 1971.

2.—(1) In this Order the expression "the specified date" means the 18th October 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 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 (Paper Box) (Holidays) Order 1969(**c**) as amended by Schedule 2 to the Wages Regulation (Paper Box) Order 1970(**d**) shall cease to have effect.

Signed by order of the Secretary of State.
22nd September 1971.

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 (Paper Box) (Holidays) Order 1969 (hereinafter referred to as "Order B.(86)"), as amended by Schedule 2 to the Wages Regulation (Paper Box) Order 1970 (Order B.(88)).

(**a**) 1959 c. 69. (**b**) 1889 c. 63. (**c**) S.I. 1969/1173 (1969 II, p. 3456).
(**d**) S.I. 1970/1202 (1970 II, p. 3990).

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 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 has been in his employment for a period of not less than four weeks immediately preceding the customary holiday and has worked for the employer for not less than half that period 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 weekday 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), August Bank Holiday and any day proclaimed as an additional bank holiday or as a public 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;

three 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, and any day proclaimed as an additional bank holiday or as a public 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 either—

(i) a day recognised by local custom as a day of holiday in substitution for the said day;

(ii) in any establishment or branch a day agreed between the employer and the majority of the workers employed at that establishment or branch or the representative or representatives of the majority of such workers.

(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 to a worker who normally works on each week-day except Saturday, a holiday on a day on which the worker normally works for the employer 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;

or (ii) if 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.

(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 four weeks of the customary holiday.

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

(*a*) for all time worked thereon at the minimum rate 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 WITH PAY

3. (1) In addition to the holidays specified in Part II of this Schedule and subject to the provisions of sub-paragraph (2) of this paragraph and of paragraph 4, an employer shall:

(a) during the period commencing with the date on which this Schedule becomes effective and ending on 30th June 1972, allow a holiday (hereinafter referred to as an "annual holiday with pay") to every worker in his employment to whom this Schedule applies who has been employed by him during any one of the periods of employment specified in Table A and Table B below, or in either of those Tables (hereinafter referred to as the "qualifying periods") and the duration of the annual holiday with pay shall in the case of each such worker be related to the period of his employment during the qualifying periods as follows:—

Table A

Period of employment during the 12 months immediately preceding 31st March 1971	*Duration of annual holiday with pay for workers with a normal working week of:—*			
	5 days	*4 days*	*3 days*	*2 days*
At least 48 weeks	*15*	*12*	*9*	*6*
" " 44 "	*14*	*11*	*8*	*6*
" " 40 "	*13*	*10*	*7*	*5*
" " 36 "	*12*	*9*	*7*	*5*
" " 32 "	*10*	*8*	*6*	*4*
" " 28 "	*9*	*7*	*5*	*4*
" " 24 "	*8*	*6*	*5*	*3*
" " 20 "	*6*	*5*	*4*	*3*
" " 16 "	*5*	*4*	*3*	*2*
" " 12 "	*4*	*3*	*2*	*2*
" " 8 "	*3*	*2*	*2*	*1*
" " 4 "	*1*	*1*	*1*	*1*

Table B

Period of employment during the 3 months immediately preceding 1st July 1971	*Duration of annual holiday with pay for workers with a normal working week of:—*			
	5 days	*4 days*	*3 days*	*2 days*
At least 12 weeks	*4*	*3*	*2*	*2*
" " 8 "	*3*	*2*	*2*	*1*
" " 4 "	*1*	*1*	*1*	*1*

(b) during the period commencing on 1st July 1972 and ending on 30th June 1973 and during the period commencing on 1st July in any year after the year 1972 and ending on 30th June in the succeeding year (hereinafter referred to as the "holiday year") allow an annual holiday with pay 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 year for any one of the periods of employment specified below and the duration of the annual holiday with pay shall in the case of each such worker be related to that period as follows:—

Table C

Period of employment	*Duration of annual holiday with pay for workers with a normal working week of:—*			
	5 days	*4 days*	*3 days*	*2 days*
At least 48 weeks	*15*	*12*	*9*	*6*
" " 44 "	*14*	*11*	*8*	*6*
" " 40 "	*13*	*10*	*7*	*5*
" " 36 "	*12*	*9*	*7*	*5*
" " 32 "	*10*	*8*	*6*	*4*
" " 28 "	*9*	*7*	*5*	*4*
" " 24 "	*8*	*6*	*5*	*3*
" " 20 "	*6*	*5*	*4*	*3*
" " 16 "	*5*	*4*	*3*	*2*
" " 12 "	*4*	*3*	*2*	*2*
" " 8 "	*3*	*2*	*2*	*1*
" " 4 "	*1*	*1*	*1*	*1*

(2) Notwithstanding the provisions of sub-paragraph (1) of this paragraph:—

(a) (i) the number of days of annual holiday with pay which an employer is required to allow to a worker in respect of a period of employment during the 15 months immediately preceding 1st July 1971 shall not exceed in the aggregate:—

in the case of a worker with a normal working week of 5 days, three times the number of days constituting the worker's normal working week, plus 4 days;

in the case of a worker with a normal working week of 4 days, three times the number of days constituting the worker's normal working week, plus 3 days; and

in the case of a worker with a normal working week of 3 days, or less, three times the number of days constituting the worker's normal working week, plus 2 days.

(ii) the number of days of annual holiday with pay which an employer is required to allow to a worker in respect of a period of employment

during the 12 months immediately preceding 1st July 1972 and during the 12 months immediately preceding 1st July in each succeeding year 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 during the period commencing with the date on which this Schedule becomes effective and ending on 30th June 1972 shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order B. (86) as amended, between 31st March 1971 and the date on which this Schedule becomes effective.

(3) In this Schedule the expression "holiday year" means the period commencing on 1st July 1971 and ending on 30th June 1972 and, thereafter, the period commencing on 1st July in any year and ending on 30th June of the succeeding year.

4.—(1) Subject to the provisions of this paragraph, an annual holiday *with pay* shall be allowed on consecutive working days, being days on which the worker is normally called upon to work for the employer.

(2) (*a*) Where the number of days of annual holiday *with pay* 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 *with pay* 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) in 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 referred to in sub-paragraph (2) of paragraph 3 above, on working days to be fixed by the employer.

(3) For the purposes of this paragraph, days of annual holiday *with pay* shall be treated as consecutive notwithstanding that a day of holiday allowed to a worker under Part II of this Schedule, a day referred to in sub-paragraph (5) of this paragraph, or a day on which he does not normally work for the employer intervenes.

(4) Where a day of holiday allowed to a worker under Part II of this Schedule immediately precedes a period of annual holiday *with pay* or occurs during such a period and the total number of days of annual holiday *with pay* required to be allowed in the period under the foregoing provisions of this paragraph, together with any such day of holiday allowed under Part II of this Schedule, exceeds the number of days constituting the worker's normal working week then, notwithstanding the foregoing provisions of this paragraph, the duration of that period of annual holiday *with pay* may be reduced by one day and in such a case one day of annual holiday *with pay* may be allowed on any working day in the holiday *year*.

(5) A day of annual holiday *with pay* shall not be allowed to a worker on any day on which he is entitled to a 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 of the duration of his annual holiday *with pay*. Such notice may be given individually to a 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) Subject to the provisions of this paragraph, 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 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 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.

(2) Holiday remuneration in respect of any holiday allowed under Part II of this Schedule shall be paid to the worker not later than on 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 with pay under this Schedule shall be paid by his employer one day's holiday pay in respect of each day thereof, such payment to be made on the last pay day preceding the holiday or not later than the first working day after its termination.

(2) Where under the provisions of paragraph 4 an annual holiday *with pay* 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 in accordance with the provisions of Order B. (86) as amended), in respect of employment during 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 *with pay* 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 B. (86) 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) Where the termination date occurs during the period commencing with the date on which this Schedule becomes effective and ending on 30th June 1972—

(a) in respect of employment in the 15 months up to and including 30th June 1971, a sum equal to the holiday remuneration which would be payable for any days of annual holiday with pay for which he has qualified (except days of annual holiday with pay which he has been allowed or has become entitled to be allowed before leaving the employment) if they were allowed at the termination date; and

(b) in respect of any employment since 1st July 1971 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 termination date.

(2) Where the termination date occurs on or after 1st July 1972—

(a) in respect of employment in the 12 months up to the preceding 30th June, a sum equal to the holiday remuneration which would be payable for any days of annual holiday with pay 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) if they were allowed at the termination date; and

(b) in respect of any employment since the preceding 30th June 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 termination date.

PART V

GENERAL

10. For the purposes of calculating any period of employment qualifying a worker for an annual holiday *with pay* 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 half the number of hours which, under his contract of employment, he can be required to work in a week, being hours in respect of which a minimum rate of overtime is not payable; or

(b) he has been absent throughout the week 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 seven in the aggregate in the period of 12 months immediately preceding the commencement of the holiday *year*; or

(c) he has been suspended throughout the week owing to shortage of work; or

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order B. (86) as amended, and for the purpose 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 in the 12 months immediately preceding the commencement of the holiday *year*,

or where under paragraph 9 accrued holiday remuneration is payable on the termination of the employment, in 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 worker's weekly remuneration, that is to say,

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
where the worker's normal working week is two days	..	one-half

and in this definition "weekly remuneration" means the amount which the worker would be entitled to receive from his employer for a week's work immediately prior to the holiday if working his normal working week and the number of daily hours usually worked by him (exclusively of overtime) and if he were paid:

(*a*) where the worker is employed as a time worker, the amount which the worker would be entitled to receive from the employer under the arrangement current immediately prior to the holiday exclusive of payments by way of bonus;

(*b*) where the worker is employed as a piece worker, statutory minimum remuneration as follows—

(i) in the case of a male worker aged 21 years or over to whom a piece work basis time rate applies or of a female worker aged 18 years or over, a time rate equal to the hourly piece work basis time rate applicable to the worker;

(ii) in the case of any other piece worker, a time rate equal to the hourly general minimum time rate which would be applicable to the worker if he were a time worker.

"statutory minimum remuneration" means minimum remuneration (other than holiday remuneration) which has been fixed by a wages regulation order made by the Secretary of State to give effect to proposals submitted to him by the Wages Council.

"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 18th October 1971, 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 (Paper Box) (Holidays) Order 1969 (Order B. (86)), as amended, which Order is revoked.

New provisions are printed in italics.