STATUTORY INSTRUMENTS

1973 No. 343

WAGES COUNCILS

The Wages Regulation (Perambulator and Invalid Carriage) (Holidays) Order 1973

Made - - - 28*th February* 1973

Coming into Operation 1*st April* 1973

Whereas the Secretary of State has received from the Perambulator and Invalid Carriage 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 (Wages Councils) Order 1972(**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 (Perambulator and Invalid Carriage) (Holidays) Order 1973.

2.—(1) In this Order the expression "the specified date" means the 1st April 1973, 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 (Perambulator and Invalid Carriage) (Holidays) Order 1970(**e**), shall cease to have effect.

Signed by order of the Secretary of State.

28th February 1973.

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

(**a**) 1959 c. 69.
(**b**) S.I. 1972/1856 (1972 III, p. 5399).
(**c**) S.I. 1959/1769, 1968/729 (1959 I, p. 1795; 1968 II, p. 2108).
(**d**) 1889 c. 63.
(**e**) S.I. 1970/1033 (1970 II, p. 3190).

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 (Perambulator and Invalid Carriage) (Holidays) Order 1970 (hereinafter referred to as "Order I. (83)").

PART I

APPLICATION

1. This Schedule applies to every worker 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 was in his employment, and (unless excused by the employer or absent by reason of the proved illness of, or accident to, the worker) attended for work, on the last working day on which work was available to him prior to 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,* Good Friday, Easter Monday, *the last Monday in May, the last Monday in August, or where another day is substituted for any of the said days by national proclamation, that day* and any day proclaimed as an additional bank holiday or as a public holiday;

(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, any day proclaimed as an additional bank holiday or as a public holiday; and *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; or

(*b*) in the case of each of the said days, 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 customary 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 weekday on which he would normally work for the employer within the period of four weeks next ensuing.

PART III

ANNUAL HOLIDAY

3.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph and paragraph 4, in addition to the holidays specified in Part II of this Schedule an employer shall, between 1st May 1973 and 30th September 1973, 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 immediately preceding the commencement of the holiday season, for any of the periods set out in the appropriate 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:—

TABLES OF ANNUAL HOLIDAY

(*a*) in the case of a worker who was under 17 years of age when he entered the employment of the employer and who is under 18 years of age at the commencement of his first annual holiday under this Schedule:—

Period of employment	Duration of annual holiday	
	Where the worker's normal working week is 6 days	Where the worker's normal working week is 5 days or less
At least 24 weeks	*18* days	*15* days
„ „ 22 „	*17* „	*14* „
„ „ 20 „	*15* „	*12* „
„ „ 18 „	*14* „	*11* „
„ „ 16 „	*12* „	*10* „
„ „ 14 „	*11* „	*9* „
„ „ 12 „	*9* „	*8* „

Provided that this provision shall apply only to a worker who is in his first employment since leaving school and in respect of his first annual holiday under this Schedule, and

(*b*) in the case of any other worker:—

Period of employment	Duration of annual holiday for workers with a normal working week of—			
	Six days	Five days	Four days	Three days or less
Column 1	Column 2	Column 3	Column 4	Column 5
At least 48 weeks	*18* days	*15* days	*12* days	*9* days
„ „ 44 „	*17* „	*14* „	*11* „	*8* „
„ „ 40 „	*15* „	*12* „	*9* „	*7* „
„ „ 36 „	*14* „	*11* „	*9* „	*6* „
„ „ 32 „	*12* „	*10* „	*8* „	*6* „
„ „ 28 „	*11* „	*9* „	*7* „	*5* „
„ „ 24 „	*9* „	*8* „	*6* „	*4* „
„ „ 20 „	*8* „	*6* „	*5* „	*3* „
„ „ 16 „	*6* „	*5* „	*4* „	*3* „
„ „ 12 „	*4* „	*3* „	*3* „	*2* „
„ „ 8 „	*3* „	*2* „	*2* „	*1* day
„ „ 4 „	1 day	*1* day	*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 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 an annual holiday during the year 1973 the period commencing on 1st May 1973 and ending on 30th September 1973, and in relation to each subsequent year, the period commencing on 1st May and ending on 30th September in that year.

4.—(1) Except as hereinafter in this paragraph otherwise provided, 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.

(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 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 agreement between the employer or his representative and the worker or his representative, either during the holiday season or on any working day before the beginning of the next following holiday season.*

(3) For the purposes of this paragraph, days of annual holiday 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 upon 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 or a day referred to in sub-paragraph (5) of this paragraph immediately precedes a period of annual holiday or occurs during such a period and the total number of days of annual holiday 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 and any day referred to in sub-paragraph (5) of this paragraph, 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 may be reduced by one day and in such a case one day of annual holiday may be allowed on any working day (not being the worker's weekly short day) in the holiday season.

(5) A day of annual holiday shall not be allowed to a worker on any day on which he is entitled to a 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) 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 holiday remuneration equal to the amount, calculated at the appropriate rate of 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 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 condition that the worker presents himself for employment on the first working day on which work is available to him following the holiday, or if he fails to do so, failure is by reason of the proved illness of, or accident to, the worker, or with the consent of the employer.

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

(3) The 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 pay week including the first working day following the holiday in lieu of customary holiday are paid:

Provided that the said payment shall be made immediately upon the termination of the worker's employment in the case where he ceases to be employed before being allowed a holiday in lieu of a customary holiday to which he is entitled and in that case 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 under this Schedule shall be paid by his employer in respect thereof, on the last pay day preceding such annual holiday, *one day's holiday pay* (*as defined in paragraph 11 of this Schedule*) *in respect of each day thereof.*

(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, or in accordance with the provisions of Order I.(83), 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.

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 30th April, a sum equal to the holiday remuneration which would be payable 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) if they were allowed at the time of leaving the employment; and

(2) in respect of any employment since the preceding 30th 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 purpose 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 18 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 18 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 eight in any such period as aforesaid; or

(*c*) he is absent from work throughout the week owing to suspension due to shortage of work: Provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed eight in the aggregate in any 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 I. (83), 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 amount which the worker would be entitled to receive from his employer, at the beginning of the holiday or the first period of the holiday, or at the termination date as the case may be, for a week's work, if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime) and if paid at the appropriate rate of statutory minimum remuneration for time work fixed by a wages regulation order in respect of the worker, for work to which that order applies and at the same rate for work (if any) to which that order does not apply

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 or less		...	*one-third.*

In the application of the foregoing provisions to the case of a piece worker the appropriate rate of statutory minimum remuneration for time work is the appropriate rate of statutory minimum remuneration that would have been applicable to him if he had been employed as a time worker.

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

"wages regulation order" means a wages regulation order made by the Secretary of State to give effect to proposals submitted to him by the Perambulator and Invalid Carriage 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 1st April 1973, sets out the holidays which an employer is required to allow to workers and the remuneration payable to such workers for those holidays, in substitution for the holidays and holiday remuneration fixed by the Wages Regulation (Perambulator and Invalid Carriage) (Holidays) Order 1970 (Order I. (83)), which Order is revoked.

New provisions are printed in italics.

SI 1973/343
ISBN 0-11-030343-1

