STATUTORY INSTRUMENTS

# 1970 No. 312

# WAGES COUNCILS

## The Wages Regulation (Pin, Hook and Eye, and Snap Fastener) (Holidays) Order 1970

*Made - - - -* *26th February* 1970
*Coming into Operation* *20th March* 1970

Whereas the Secretary of State has received from the Pin, Hook and Eye, and Snap Fastener 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 (Pin, Hook and Eye, and Snap Fastener) (Holidays) Order 1970.

**2.**—(1) In this Order the expression "the specified date" means the 20th March 1970, 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 (Pin, Hook and Eye, and Snap Fastener) (Holidays) Order 1965(c) shall cease to have effect.

Signed by order of the Secretary of State.

26th February 1970.

*A. A. Jarratt,*
Deputy Under Secretary of State,
Department of
Employment and Productivity.

(a) 1959 c. 69. (b) 1889 c. 63. (c) S.I. 1965/2155 (1965 III, p. 6315).

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 (Pin, Hook and Eye, and Snap Fastener) (Holidays) Order 1965 (hereinafter referred to as "Order O.(77)").

## PART I

## APPLICATION

1. This Schedule applies to every worker (other than a home-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 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 during the whole or part of 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 prior to 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 two other days (being days on which the worker normally works) 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;

(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; and
five other days (being days on which the worker normally works) 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 and notified to the worker as aforesaid) such weekday as may be substituted therefor by agreement between the employer and the worker.

(3) 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 weekday on which he normally works for the employer within the four weeks immediately following the customary holiday.

(4) 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

3.—(1) In addition to the holidays specified in Part II of this Schedule and subject to the provisions of paragraph 4, an employer shall, between 1st May 1970 and 30th September 1970, 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 of employment specified below, and the duration of the annual holiday shall in the case of each such worker be related to that period as follows:—

| Period of employment | Duration of annual holiday for workers with a normal working week of:— | | |
|---|---|---|---|
| | Six days | Five days | Four days or less |
| Column 1 | Column 2 | Column 3 | Column 4 |
| At least 48 weeks ... ... ... | *16 days* | *13 days* | *10 days* |
| „ „ 44 „ ... ... ... | *14* „ | *11* „ | *9* „ |
| „ „ 40 „ ... ... ... | *13* „ | *10* „ | *8* „ |
| „ „ 36 „ ... ... ... | *12* „ | *9* „ | *7* „ |
| „ „ 32 „ ... ... ... | *10* „ | *8* „ | *6* „ |
| „ „ 28 „ ... ... ... | *9* „ | *7* „ | *5* „ |
| „ „ 24 „ ... ... ... | *8* „ | *6* „ | *5* „ |
| „ „ 20 „ ... ... ... | *6* „ | *5* „ | *4* „ |
| „ „ 16 „ ... ... ... | *5* „ | *4* „ | *3* „ |
| „ „ 12 „ ... ... ... | *4* „ | *3* „ | *2* „ |
| „ „ 8 „ ... ... ... | *2* „ | *2* „ | 1 *day* |
| „ „ 4 „ ... ... ... | *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 twice the number of days constituting the worker's normal working week plus—*

*four days where the normal working week is six days;*

*three days where the normal working week is five days; and*

*two days where the normal working week is four days or less.*

(3) In this Schedule the expression "holiday season" means in relation to the year 1970 the period commencing on 1st May 1970 and ending on 30th September 1970, 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.

(2) Where the number of days of annual holiday for which a worker has qualified exceeds the number of days constituting his normal working week,

the holiday may be allowed in two or more periods of consecutive working days, provided that one of the periods shall be of not less duration than the number of days constituting the worker's normal working week.

(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 or a day upon which he does not normally work for the employer intervenes.

(4) Where an annual holiday is allowed in two or more periods in accordance with sub-paragraph (2) of this paragraph, then notwithstanding paragraph 3, the periods which are not required by virtue of sub-paragraph (2) of this paragraph to consist of a number of days not less than the number of days constituting the worker's normal working week may be allowed either in the holiday season or, by agreement with the worker, after the end of the holiday season but before 30th April next following.

(5) 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 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, 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.

(6) 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 which a worker is allowed under Part II of this Schedule he shall be paid by the employer holiday remuneration equal to the amount to which he would have been entitled, calculated at the general minimum time rate applicable to the worker (or which would be applicable if he were a time worker) increased by one-third, 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 within one hour of the usual starting 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 the 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, 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 under this Schedule shall be paid by the employer in respect thereof, on the last pay day preceding such annual holiday, one day's holiday pay (as defined in paragraph 11) 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 with Order O. (77) 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 O.(77).

## 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) in respect of employment in the 12 months ended on the preceding 30th April, 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 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 purposes of calculating any period of employment qualifying a worker for an annual holiday or for any accrued holiday remuneration, 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; or

(*b*) he has been absent throughout the week, or he has worked for the employer for less than 20 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 reason shall not exceed six in the aggregate in the period of 12 months immediately preceding the commencement of the holiday season; 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 four in the aggregate in the period of 12 months last mentioned, and

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order O.(77), 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 accrued holiday remuneration is payable under (2) of paragraph 9 on the termination of the employment, during 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.

"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 allowed in more than one period at the date of the first period) or at the termination date, 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 general minimum time rate applicable to the worker (or which would be applicable if he were a time worker) increased by one-third, for work for which statutory minimum remuneration is payable and at the same rate (increased as aforesaid) 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 or less ... ... ... ... ... ... ... | one-quarter |

"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 her by the Pin, Hook and Eye, and Snap Fastener 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.

13. *The revocation by this Order of Order O.*(77) *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 to him before* 1*st May* 1970 *under the provisions of paragraph* 4(4) *of the Schedule to Order O.*(77).

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which has effect from 20th March 1970, 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 (Pin, Hook and Eye, and Snap Fastener) (Holidays) Order 1965 (Order O.(77)), which Order is revoked.

New provisions are printed in italics.

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