STATUTORY INSTRUMENTS

1975 No. 19

WAGES COUNCILS

The Wages Regulation (Retail Bespoke Tailoring) (Scotland) (Holidays) Order 1975

Made - - - -	10*th January* 1975
Coming into Operation	3*rd February* 1975

Whereas the Secretary of State has received from the Retail Bespoke Tailoring Wages Council (Scotland) (hereafter in this Order referred to as "the Wages Council") 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)**, and now vested in him**(b)**, 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 (Retail Bespoke Tailoring) (Scotland) (Holidays) Order 1975.

2.—(1) In this Order the expression "the specified date" means the 3rd February 1975, 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**(c)** 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 (Retail Bespoke Tailoring) (Scotland) (Holidays) (No. 2) Order 1967**(d)** shall cease to have effect.

Signed by order of the Secretary of State.

10th January 1975.

D. J. Derx,
Deputy Secretary,
Department of Employment.

(a) 1959 c. 69.
(b) S.I. 1959/1769, 1968/729 (1959 I, p. 1795; 1968 II, p. 2108).
(c) 1889 c. 63.
(d) S.I. 1967/1667 (1967 III, p. 4569).

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 (Retail Bespoke Tailoring) (Scotland) (Holidays) (No. 2) Order 1967 (Order R.B.S. (68)).

PART I

APPLICATION

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

(2) For the purposes of this Schedule an outworker 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 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 was in his employment for a period of not less than eight weeks immediately preceding the customary holiday.

(2) The said customary holidays are—

(*a*) 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 would normally work) 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 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 within the period of three weeks next ensuing.

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 1975 and 31st October 1975, and in each succeeding year between 1st May and 31st October, 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 one of the periods of employment (calculated in accordance with the provisions of paragraph 10) set out in the table below and the duration of the annual holiday shall in the case of each such worker be related to that period of employment as follows:—

TABLE OF ANNUAL HOLIDAY

Workers with a normal working week of 6 days		Workers with a normal working week of 5 days or less	
Period of employment	Duration of annual holiday	Period of employment	Duration of annual holiday
At least 48 weeks	*20 days*	At least 48 weeks	*17 days*
„ „ 46 „	*18* „	„ „ 45 „	*15* „
„ „ 44 „	*17* „	„ „ 42 „	*14* „
„ „ 42 „	*16* „	„ „ 39 „	*13* „
„ „ 40 „	*15* „	„ „ 36 „	*12* „
„ „ 38 „	*14* „	„ „ 33 „	*11* „
„ „ 36 „	*13* „	„ „ 30 „	*10* „
„ „ 33 „	*12* „	„ „ 27 „	*9* „
„ „ 30 „	*11* „	„ „ 24 „	*8* „
„ „ 27 „	*10* „	„ „ 21 „	6 „
„ „ 24 „	*9* „	„ „ 18 „	5 „
„ „ 21 „	7 „	„ „ 15 „	4 „
„ „ 18 „	6 „	„ „ 12 „	3 „
„ „ 15 „	5 „	„ „ 8 „	2 „
„ „ 12 „	4 „	„ „ 4 „	1 day
„ „ 9 „	3 „		
„ „ 6 „	2 „		
„ „ 3 „	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, *plus two days.*

(3) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1975 the period commencing on 1st May 1975, and ending on 31st October 1975 and in relation to each subsequent year, the period commencing on 1st May and ending on 31st October in that year.

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 holiday shall be treated as consecutive notwithstanding that a Sunday, a customary holiday on which the worker is not required to work or a holiday in lieu of a customary holiday intervenes.

(2)(*a*) Where the duration of an annual holiday which the employer is required to allow to a worker exceeds the period constituting the worker's normal working week but does not exceed the period constituting twice his normal working week, the said holiday may by agreement in writing made between the employer and the worker be allowed in two separate periods of consecutive working days, if one of such periods is not less than the period 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 in writing 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;

(*c*) one day of an annual holiday may be allowed on a non-consecutive working day falling in the holiday season where the said annual holiday or such separate period, as the case may be, is allowed immediately after a customary holiday on which the worker is not required to work or so that such a customary holiday intervenes.

(3) 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 of the duration of the period or periods of his annual holiday. Such notice may be given individually to the worker or by posting the 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 holiday remuneration equal to the statutory minimum remuneration to which he would have been entitled, if the day had not been a day of holiday and if he had worked as a time worker on that day on work for which statutory minimum remuneration is payable—

(*a*) in the case of a worker who normally works for less than 30 hours in a week, for 4 hours, or

(*b*) in the case of a worker who normally works for 30 hours or more in a week, for 8 hours.

(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 pay week including the customary holiday are paid.

(3) 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 that 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 a holiday in lieu of a customary holiday to which he is entitled.

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, on the last day preceding such 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 of this Schedule or in accordance with the provisions of Order R.B.S. (68)) 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 any of the said periods 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 R.B.S. (68).

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

9.—(1) 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:—

(*a*) in respect of employment in the 12 months up to and including 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

(*b*) in respect of any employment since the said 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, and if paid at the rate of one day's holiday pay (as defined in paragraph 11) in respect of each day thereof:

Provided that if any worker, without the consent of his employer, terminates his employment without having given not less than one week's notice, or before one week has expired from the beginning of such notice terminating his employment, the amount of accrued holiday remuneration payable to the worker shall be the amount payable under the foregoing provisions of this paragraph less an amount equal to the statutory minimum remuneration which would be payable to him at the termination date for one week's work if paid as a time worker and if working his normal working week and the number of daily hours usually worked by him.

(2) Any accrued holiday remuneration payable under the provisions of this paragraph shall be reduced by the amount of any accrued holiday remuneration already paid by the employer to the worker in pursuance of this Order or Order R.B.S. (68), in respect of the same period of employment or part thereof.

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 24 hours and has performed some work for which statutory minimum remuneration is payable; or

(*b*) he has been absent throughout the week 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 four in the aggregate in any such period as aforesaid; or

(*c*) he has been suspended throughout the week owing to shortage of work: 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 any such period as aforesaid;

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order R.B.S. (68), 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 on work for which statutory minimum remuneration is payable—

(*a*) where the holiday is a customary holiday, or a holiday in lieu of the customary holiday for 8 hours if the worker normally works for 30 hours or more in a week or for 4 hours if he normally works for less than 30 hours in a week; or

(*b*) where the holiday is a day of annual holiday, for the number of hours ordinarily worked by him on that day of the week.

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 season, or, where under paragraph 9, accrued holiday remuneration is payable on the termination of the employment, in the 12 months immediately preceding the termination date:

Provided that—

(1) part of a day shall count as a day; and

(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 annual holiday is taken in more than one period, at the date of the first period) or at the termination date, as the case may be, for one week's work if working as a time worker for 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 to which statutory minimum remuneration applies and at the same rate for any work for the same employer to which such remuneration does not apply, and in this definition "appropriate proportion" means—

Where the worker's normal working week is							six	days—one-sixth
„	„	„	„	„	„	„	five	„ —one-fifth
„	„	„	„	„	„	„	four	„ —one-quarter
„	„	„	„	„	„	„	three	„ —one-third
„	„	„	„	„	„	„	two	„ —one-half
„	„	„	„	„	„	„	one day	—the whole

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

"WEEK" 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 R.B.S. (68) 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 *1st May 1975* under the provisions of paragraph 4(2)(*b*)(ii) of the Schedule to Order R.B.S. (68).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which has effect from 3rd February 1975, sets out the holidays which an employer is required to allow to workers in relation to whom the Retail Bespoke Tailoring Wages Council (Scotland) operates, and the remuneration payable for those holidays in substitution for the holidays and holiday remuneration fixed by the Wages Regulation (Retail Bespoke Tailoring) (Holidays) (No. 2) Order 1967 (Order R.B.S. (68)). Order R.B.S. (68) is revoked.

New provisions are printed in italics.

SI 1975/19 W
ISBN 0-11-050019-9

