STATUTORY INSTRUMENTS

1971 No. 1631

WAGES COUNCILS

The Wages Regulation (Retail Drapery, Outfitting and Footwear) (Amendment) Order 1971

Made - - - -	*6th October* 1971
Coming into Operation	*15th November* 1971

Whereas the Secretary of State has received from the Retail Drapery, Outfitting and Footwear Trades 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 (Retail Drapery, Outfitting and Footwear) (Amendment) Order 1971.

2.—(1) In this Order the expression "the specified date" means the 15th November 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.

3. The wages regulation proposals set out in the Schedule hereto shall have effect as from the specified date.

Signed by order of the Secretary of State.

6th October 1971.

J. R. Lloyd Davies,
Assistant Secretary,
Department of Employment.

(a) 1959 c. 69.

(b) 1889 c. 63.

Article 3

SCHEDULE

STATUTORY MINIMUM REMUNERATION

The Wages Regulation (Retail Drapery, Outfitting and Footwear) Order 1971(a) (Order R.D.O. (56)) shall have effect as if in the Schedule thereto:—

1. for paragraph 5 there were substituted the following paragraph:—

"MINIMUM OVERTIME RATES

5.—(1) Subject to the provisions of this paragraph, overtime shall be payable to all workers at the following minimum rates:—

(*a*) For work on a Sunday or customary holiday,

(i) where time worked does not exceed 4½ hours—double time for 4½ hours

(ii) where time worked exceeds 4½ hours but does not exceed 8 hours—double time for 8 hours

(iii) where time worked exceeds 8 hours—double time for all time worked:

Provided that—

(i) *where a worker performs work on a customary holiday which is a day fixed by the employer, being a day on which the worker would normally work, during the period commencing on the last day on which the worker would normally work before Christmas Day and ending in England and Wales on the next following 2nd January, and in Scotland on the next following 3rd January, overtime rates in accordance with the provisions of this sub-paragraph shall be payable to that worker only if—*

(*a*) *he is a worker who normally works for the employer for more than 9 hours in a week; and*

(*b*) *he has been in the employment of the employer throughout the period of 8 weeks immediately preceding the week in which Christmas Day falls;*

(ii) where it is or becomes the practice in a Jewish undertaking for the employer to require attendance on Sunday instead of Saturday, the provisions of this paragraph shall apply as if in such provisions the word 'Saturday' were substituted for 'Sunday', except where such substitution is unlawful.

(*b*) On the weekly short day in any week during which, under subsection (3) of section 40 of the Shops Act 1950(b), the employer is relieved of his obligation to allow the worker a weekly half day,

for any time worked after 1.30 p.m. .. .. double time

(*c*) On the weekly short day (not being a weekly short day to which (*b*) of this sub-paragraph applies),

for any time worked after 1.30 p.m. .. .. time-and-a-half

(*d*) In any week, exclusive of any time in respect of which a minimum overtime rate is payable under the foregoing provisions of this paragraph,

for all time worked in excess of 42 hours .. .. time-and-a-half

Provided that in any week which includes one customary holiday '35 hours' shall be substituted for '42 hours', in any week which includes two customary holidays '28 hours' shall be substituted for '42 hours' *and in any week which includes three customary holidays '21 hours' shall be substituted for the said '42 hours'*.

(a) S.I. 1971/845 (1971 II, p. 2431). (b) 1950 c. 28.

(2) Overtime rates in accordance with provisions (*a*), (*c*) and (*d*) of sub-paragraph (1) of this paragraph shall be payable to a shop manager, temporary shop manager, shop manageress or temporary shop manageress only if the overtime worked is specifically authorised in writing by the employer or his representative."

2. for paragraph 7 there were substituted the following paragraph:—

"WORKERS WHO ARE NOT REQUIRED TO WORK ON A CUSTOMARY HOLIDAY

7.—(1) Subject to the provisions of sub-paragraph (2) *and sub-paragraph (3)* of this paragraph, a worker who is not required to work on a customary holiday shall be paid for that holiday not less than the amount to which he would have been entitled under the foregoing provisions of this Schedule had the day not been a customary holiday and had he worked the number of hours ordinarily worked by him on that day of the week.

(2) A worker shall not be entitled to any payment under this paragraph unless he—

(*a*) worked for the employer throughout the last working day on which work was available for him preceding the holiday; and

(*b*) presents himself for employment at the usual starting time on the first working day after the holiday:

Provided that (*a*) or (*b*), as the case may be, of this sub-paragraph shall be deemed to be complied with where the worker is excused by his employer or is prevented by his proved illness or injury from working or presenting himself for employment as aforesaid.

(3) *A worker shall not be entitled to any payment under this paragraph in respect of a customary holiday which is a day fixed by the employer, being a day on which the worker would normally work, during the period commencing on the last day on which the worker would normally work before Christmas Day and ending in England and Wales on the next following 2nd January and in Scotland on the next following 3rd January unless—*

(a) he is a worker who normally works for the employer for more than 9 hours in a week; and

(b) he has been in the employment of the employer throughout the period of 8 weeks immediately preceding the week in which Christmas Day falls."

3. for the definition of "Customary Holiday" in paragraph 19 there were substituted the following definition:—

" 'CUSTOMARY HOLIDAY' means

(1)(*a*) In England and Wales—

(i) 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 a public holiday throughout England and Wales; and

(ii) one other day being a day on which the worker would normally work *during the period commencing on the last day on which the worker would normally work before Christmas Day and ending on the next following 2nd January*, to be fixed by the employer and notified to the worker not less than three weeks before the holiday;

(*b*) In Scotland—

(i) 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;

Christmas Day (or, if Christmas Day falls on a Sunday, the following Monday);

two 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 and any day proclaimed as a public holiday throughout Scotland; and

(ii) one other day being a day on which the worker would normally work *during the period commencing on the last day on which the worker would normally work before Christmas Day and ending on the next following 3rd January*, to be fixed by the employer and notified to the worker not less than three weeks before the holiday; or

(2) where in any undertaking it is not the custom or practice to observe such days as are *specified in* (*1*)(*a*)(*i*) *or* (*1*)(*b*)(*i*) above as holidays, such other days, not fewer in number, as may by agreement between the employer or his representative and the worker or his representative be substituted for the specified days."

EXPLANATORY NOTE

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

This Order, which has effect from 15th November 1971, amends the Wages Regulation (Retail Drapery, Outfitting and Footwear) Order 1971 (Order R.D.O.(56)) by extending the provisions affecting customary holidays fixed by that Order.

New provisions are printed in italics.