STATUTORY INSTRUMENTS

1973 No. 157

WAGES COUNCILS

The Wages Regulation (Rubber Proofed Garment) (Holidays) Order 1973

Made - - -	*1st February* 1973
Coming into Operation	*1st March* 1973

Whereas the Secretary of State has received from the Rubber Proofed Garment Making Industry 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**), 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 (Rubber Proofed Garment) (Holidays) Order 1973.

2.—(1) In this Order the expression "the specified date" means the 1st March 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 (Rubber Proofed Garment) (Holidays) Order 1967(**e**) as amended by Schedule 2 to the Wages Regulation (Rubber Proofed Garment) Order 1971(**f**) shall cease to have effect.

Signed by order of the Secretary of State.

1st 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. 1967/628 (1967 I, p. 1881).
(**f**) S.I. 1971/1836 (1971 III, p. 5005).

Article 3

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 (Rubber Proofed Garment) (Holidays) Order 1967 (hereafter referred to as "Order R.P.G. (23)") as amended by Schedule 2 to the Wages Regulation (Rubber Proofed Garment) Order 1971 (Order R.P.G. (33)).

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 (unless excused by the employer or absent by reason of the proved illness of or accident to 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;
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 above days by national proclamation, that day)
and one other day (being a day 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:

Provided that in the case of a worker who normally works on each weekday except Saturday—

if 25th or 26th December fall on a Saturday, 24th or 28th December shall in either case be a customary 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
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 for the employer, the worker shall be allowed a day's holiday (hereinafter referred to as a "holiday in lieu of a customary holiday") on a

weekday, being a day upon which he would normally work, within the period of four weeks next ensuing.

(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 sub-paragraph (2) of this paragraph and of paragraph 4, an employer shall between 1st May 1973 and 31st October 1973, 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 ending on 5th April 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 as follows:—

Period of employment	Duration of annual holiday
At least 48 weeks	15 days
„ „ 45 „	14 „
„ „ 42 „	13 „
„ „ 39 „	12 „
„ „ 36 „	11 „
„ „ 33 „	10 „
„ „ 30 „	9 „
„ „ 27 „	8 „
„ „ 24 „	7 „
„ „ 21 „	6 „
„ „ 18 „	5 „
„ „ 15 „	4 „
„ „ 12 „	3 „
„ „ 8 „	2 „
„ „ 4 „	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 the year 1973 the period commencing on 1st May 1973 and ending on 31st October 1973, and, in each succeeding year, the period commencing on 1st May and ending on 31st October 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) (*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 the employer, either during the holiday season or within the period ending on 8th January immediately following the 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 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 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 in the holiday season.

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 the posting of a notice in the place where the worker is employed.

PART IV

HOLIDAY REMUNERATION

CUSTOMARY HOLIDAYS AND HOLIDAYS IN LIEU OF CUSTOMARY HOLIDAYS

6.—(1) For each day of holiday (including a holiday falling on a Saturday) to which a worker is entitled under Part II of this Schedule he shall be paid by the employer as holiday remuneration whichever of the following amounts is the greater:—

(*a*) one-fifth of the average weekly earnings of the worker during the 12 months ended on 5th April immediately preceding the holiday, such average weekly earnings to be determined by dividing, by the number of weeks of employment with the employer during the said period, the total remuneration (including holiday remuneration) paid to him by the employer during that period:

Provided that when Good Friday or Easter Monday in England and Wales or the local Spring holiday in Scotland (or days substituted therefor under the provisions of sub-paragraph (2)(*b*) of paragraph 2 or holidays in lieu of such customary holidays) fall after 5th April in any year, the holiday remuneration for any such holiday under this sub-paragraph shall be one-fifth of the average weekly earnings of the worker (calculated as aforesaid) during the 12 months ended on 5th April in the preceding calendar year; or

(*b*) in the case of a worker normally employed for more than 24 hours a week one-fifth, or in the case of any other worker one-tenth, of the amount of statutory minimum remuneration which would be payable to him at the date of the holiday if he were paid for 40 hours' work at the hourly general minimum time rate applicable to him or, in the case of a piece worker, which would be applicable to him if he were a time worker.

(2) Notwithstanding the provisions of sub-paragraph (1) of this paragraph, 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, or accident to, the

worker) presents himself for employment at the usual starting hour on the first working day following the holiday:

Provided that when two customary holidays occur on successive days (or so that no working day intervenes) the said condition shall apply only to the second customary holiday.

(3) Where a worker normally works in the week on every weekday except Saturday, he shall be paid in respect of any Saturday on which he would have been entitled to a holiday under Part II of this Schedule if it had been a day on which he normally worked, a sum equivalent to the holiday remuneration he would have been entitled to receive had he been allowed a holiday on that day.

(4) Holiday remuneration in respect of any customary holiday shall be paid by the employer to the worker on the day on which wages are paid for the first working day following the customary holiday.

(5) Holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid on the day on which wages are paid for the first working day following the holiday in lieu of a customary holiday:

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 such holiday in lieu of a customary holiday and in that case sub-paragraph (2) of this paragraph shall not apply.

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 as holiday remuneration by his employer in respect thereof, on the last pay-day preceding such annual holiday, an amount equal to 6 per cent. of the total remuneration (including holiday remuneration) paid by the employer to the worker during the 12 months ended on 5th April immediately preceding the commencement of the holiday season.

(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 under Order R.P.G. (23) as amended in respect of employment during either of the periods referred to in that paragraph, 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 R.P.G. (23) 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, pay to the worker as accrued holiday remuneration:—

(1) in respect of employment in the 12 months up to and including the 5th day of the preceding 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; and

(2) in respect of any employment since the said 5th April, a sum equal to 6 per cent. of the total remuneration (including holiday remuneration) paid by the employer to the worker since that date.

PART V

GENERAL

10. For the purpose of calculating any period of employment qualifying a worker for an annual holiday 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;

(*b*) he has worked for the employer for less than 24 hours by reason of the proved illness of, or accident to, the worker or for a like reason has been absent throughout the week: 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; 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;

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order R.P.G. (23) as amended 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 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:—

"HOMEWORKER" means a worker who works in his own home or in some other place not under the control or management of the employer.

"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 date of the termination of the employment:

Provided that—

(i) part of a day shall count as a day;

(ii) 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.

"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 him by the Rubber Proofed Garment Making Industry Wages Council.

"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.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which has effect from 1st March 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 set out in the Wages Regulation (Rubber Proofed Garment) (Holidays) Order 1967 (Order R.P.G. (23)) as amended by Schedule 2 to the Wages Regulation (Rubber Proofed Garment) Order 1971 (Order R.P.G. (33)). Order R.P.G. (23) is revoked.

New provisions are printed in italics.

SI 1973/157
ISBN 0-11-030157-9

