STATUTORY INSTRUMENTS

1972 No. 1088

WAGES COUNCILS

The Wages Regulation (Stamped or Pressed Metal-Wares) (Holidays) Order 1972

Made - - -	20*th July* 1972
Coming into Operation	16*th August* 1972

Whereas the Secretary of State has received from the Stamped or Pressed Metal-Wares 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 (Stamped or Pressed Metal-Wares) (Holidays) Order 1972.

2.—(1) In this Order the expression "the specified date" means the 16th August 1972, 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 (Stamped or Pressed Metal-Wares) (Holidays) Order 1971(**c**) shall cease to have effect.

Signed by order of the Secretary of State.
20th July 1972.

R. R. D. McIntosh,
Deputy Secretary,
Department of Employment.

(**a**) 1959 c. 69.
(**b**) 1889 c. 63.
(**c**) S.I. 1971/1089 (1971 II, p. 3238).

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 (Stamped or Pressed Metal-Wares) (Holidays) Order 1971 (hereinafter referred to as "Order Q. (106) ").

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 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 seven working days on which work was available to him immediately 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 week day 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 of the week 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;

(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 of the week 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 (other than a day fixed by the employer in Scotland and notified to the worker as aforesaid) such week day as may be substituted therefor, being a day recognised by local custom as a day of holiday in substitution for the said day or a day agreed between the employer and the worker or his representative.

(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 worker shall be entitled to be allowed 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 for the employer 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, the statutory minimum remuneration 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) Subject to the provisions of paragraph 4, in addition to the holidays specified in Part II of this Schedule an employer shall, between the date on which the provisions of this Schedule become effective and 30th September 1972, 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 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:—

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
At least 48 weeks	12 days	10 days	8 days	6 days
„ „ 44 „	11 „	9 „	7 „	6 „
„ „ 40 „	10 „	8 „	6 „	5 „
„ „ 36 „	9 „	7 „	6 „	5 „
„ „ 32 „	8 „	6 „	5 „	4 „
„ „ 28 „	7 „	5 „	4 „	4 „
„ „ 24 „	6 „	5 „	4 „	3 „
„ „ 20 „	5 „	4 „	3 „	3 „
„ „ 16 „	4 „	3 „	2 „	2 „
„ „ 12 „	3 „	2 „	2 „	1 day
„ „ 8 „	2 „	1 day	1 day	1 „
„ „ 4 „	1 day	1 „	—	—

(2) Notwithstanding the provisions of the last foregoing sub-paragraph—

(*a*) 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.

(*b*) the duration of the worker's annual holiday during the holiday season ending on 30th September 1972, shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order Q.(106), between 1st May 1972 and the date on which this Schedule becomes effective.

(3) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1972, the period commencing on 1st May 1972, and ending on 30th September 1972, and in relation to each subsequent year, the period commencing on 1st May and ending on 30th September in that year.

4.—(1) 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 annual holiday shall be treated as consecutive notwithstanding that a Sunday, a customary holiday on which the worker is not required to work for the employer or a holiday in lieu of a customary holiday intervenes:

Provided that—

(i) Where the duration of an annual holiday which an employer is required to allow to a worker exceeds the number of days constituting the worker's normal working week the said holiday may be allowed in two separate periods of such consecutive working days, and in that event, notwithstanding the foregoing provisions of this Schedule, the annual holiday shall be allowed as follows:—

(*a*) as to one period, not being less than the number of days constituting the worker's normal working week, during the holiday season, and

(*b*) as to the other period, during the holiday season or within the period ending on 30th April immediately following the holiday season.

(ii) One day of the annual holiday may be allowed on a non-consecutive working day (other than the worker's weekly short day) falling within the holiday season (or after the holiday season in the circumstances specified in sub-paragraph (1)(i)(*b*) of this paragraph) where the annual holiday or, as the case may be, such separate period, is allowed immediately after a customary holiday on which the worker is not required to work or so that such a holiday intervenes.

(2) Subject to the provisions of sub-paragraph (1) 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 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, increased by one third* to which he would have been entitled 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 at the usual starting hour on the first working day following the holiday and works throughout his normal working hours on that day or, if he fails to do so, failure is by reason of the proved illness of 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 not later than the pay day on which the wages are paid for the pay week including the first working day following the customary holiday.

(3) The holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid not later than the pay day on which the wages are paid for the pay week including 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 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) 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 Order Q. (106), 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 or of Order Q. (106).

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 30th day of the preceding 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 30th day of the preceding 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 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 10 hours and has performed some work for which statutory minimum remuneration is payable;

(*b*) he has been absent throughout the week 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;

(*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 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 Q. (106), 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:—

"appropriate rate of statutory minimum remuneration" means—

(*a*) in the case of a time worker, the rate of statutory minimum remuneration which would be applicable to the worker *if a minimum overtime rate did not apply* and

(*b*) in the case of a piece worker, the rate of statutory minimum remuneration which would be applicable to the worker if he were a time worker *and a minimum overtime rate did not apply.*

"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—

(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.

"one day's holiday pay" means—

(1) *Up to and including 30th April 1973* 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 of the employment, 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

appropriate rate of statutory minimum remuneration for work for which statutory minimum remuneration is payable and at the same rate for any work for which such remuneration is not payable, and "appropriate rate of statutory minimum remuneration" means—

(*a*) in the case of a time worker, the rate or rates of statutory minimum remuneration applicable to the worker, and

(*b*) in the case of a piece worker, the rate or rates of statutory minimum remuneration which would be applicable to the worker if he were a time worker.

(2) *On and after 1st May 1973* 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 of the employment, 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 appropriate rate of statutory minimum remuneration for work for which statutory minimum remuneration is payable, *increased by one third,* 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	...	one-quarter
where the worker's normal working week is three days or less	...	one-third

"statutory minimum remuneration" means statutory 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 Stamped or Pressed Metal-Wares 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 16th August 1972, sets out the holidays which an employer is required to allow to workers and the remuneration to be paid to such workers for those holidays, in substitution for the holidays and holiday remuneration fixed by the Wages Regulation (Stamped or Pressed Metal-Wares) (Holidays) Order 1971 (Order Q.(106)), which Order is revoked.

New provisions are printed in italics.

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