STATUTORY INSTRUMENTS

1971 No. 1394

WAGES COUNCILS

The Wages Regulation (Toy Manufacturing) (Holidays) Order 1971

Made - - - - 19*th August* 1971

Coming into Operation 13*th September* 1971

Whereas the Secretary of State has received from the Toy Manufacturing 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 (Toy Manufacturing) (Holidays) Order 1971.

2.—(1) In this Order the expression "the specified date" means the 13th September 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 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 (Toy Manufacturing) (Holidays) Order 1970(c) shall cease to have effect.

Signed by order of the Secretary of State.

19th August 1971.

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

(a) 1959 c. 69.
(b) 1889 c. 63.
(c) S.I. 1970/499 (1970 I, p. 1699).

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 (Toy Manufacturing) (Holidays) Order 1970 (hereinafter referred to as "Order Y. (84)").

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 worked for the employer throughout the last working day on which work was available to him prior to the holiday (unless excused by the employer or absent by reason of the proved illness of, or accident to, the worker).

(2) The said customary hoidays 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) and August Bank 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 (other than a day fixed by the employer in Scotland and notified to the worker as aforesaid) 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, 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 weekday 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 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 HOLIDAYS

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 this Schedule becomes effective and 31st October 1971, and in each succeeding year between 1st April 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 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 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
Column 1	Column 2	Column 3	Column 4	Column 5
At least 48 weeks	*18 days*	*15 days*	12 days	9 days
„ „ 47 „	*17* „	*14* „	11 „	8 „
„ „ 46 „	*17* „	*14* „	11 „	8 „
„ „ 45 „	*16* „	*14* „	11 „	8 „
„ „ 44 „	*16* „	*13* „	11 „	8 „
„ „ 43 „	*16* „	*13* „	10 „	8 „
„ „ 42 „	*15* „	*13* „	10 „	7 „
„ „ 41 „	*15* „	*12* „	10 „	7 „
„ „ 40 „	*15* „	*12* „	10 „	7 „
„ „ 39 „	*14* „	*12* „	9 „	7 „
„ „ 38 „	*14* „	*11* „	9 „	7 „
„ „ 37 „	*13* „	*11* „	9 „	6 „
„ „ 36 „	*13* „	*11* „	9 „	6 „
„ „ 35 „	*13* „	*10* „	8 „	6 „
„ „ 34 „	*12* „	*10* „	8 „	6 „
„ „ 33 „	*12* „	*10* „	8 „	6 „
„ „ 32 „	*12* „	*10* „	8 „	6 „
„ „ 31 „	*11* „	*9* „	7 „	5 „
„ „ 30 „	*11* „	*9* „	7 „	5 „
„ „ 29 „	*10* „	*9* „	7 „	5 „
„ „ 28 „	*10* „	*8* „	7 „	5 „
„ „ 27 „	*10* „	*8* „	6 „	5 „
„ „ 26 „	*9* „	*8* „	6 „	4 „
„ „ 25 „	*9* „	*7* „	6 „	4 „
„ „ 24 „	*9* „	*7* „	6 „	4 „
„ „ 23 „	*8* „	*7* „	5 „	4 „
„ „ 22 „	*8* „	*6* „	5 „	4 „
„ „ 21 „	*7* „	*6* „	5 „	3 „
„ „ 20 „	*7* „	*6* „	5 „	3 „
„ „ 19 „	*7* „	*5* „	4 „	3 „
„ „ 18 „	*6* „	*5* „	4 „	3 „
„ „ 17 „	*6* „	*5* „	4 „	3 „
„ „ 16 „	*6* „	*5* „	4 „	3 „
„ „ 15 „	*5* „	*4* „	3 „	2 „
„ „ 14 „	*5* „	*4* „	3 „	2 „
„ „ 13 „	*4* „	*4* „	3 „	2 „
„ „ 12 „	*4* „	*3* „	3 „	2 „
„ „ 11 „	*4* „	*3* „	2 „	2 „
„ „ 10 „	*3* „	*3* „	2 „	1 day
„ „ 9 „	*3* „	*2* „	2 „	1 „
„ „ 8 „	*3* „	*2* „	2 „	1 „
„ „ 7 „	*2* „	*2* „	1 day	1 „
„ „ 6 „	*2* „	*1 day*	1 „	1 „
„ „ 5 „	*1 day*	*1* „	1 „	—
„ „ 4 „	*1* „	*1* „	1 „	—

(2) Notwithstanding the provisions of sub-paragraph (1) of this paragraph the number of days of annual holiday which an employer is required to allow to a worker in the holiday season 1st April 1971 to 31st October 1971 and in each succeeding year between 1st April and 31st October shall not exceed in the aggregate *three times* the number of days constituting the worker's normal working week.

(3) The duration of the worker's annual holiday in the holiday season ending on 31st October 1971, shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order Y. (84) between 1st April 1971, and the date on which the provisions of this Schedule become effective.

(4) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1971, the period commencing on 1st April 1971, and ending on 31st October 1971, and in relation to each subsequent year, the period commencing on 1st April and ending on 31st October in that 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 or, in the circumstances specified in sub-paragraph (4) of this paragraph, in more than two periods; so however that when a holiday is so allowed, one of the periods shall consist of a number of consecutive working 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 the additional days, on working days which need not be consecutive, to be fixed by the employer, either during the holiday season or before the beginning of the next following holiday season and notified to the worker not less than three weeks before the holiday.

(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 Sunday 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 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.

(5) 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. Subject to the provisions of paragraph 4, an employer shall give to a worker reasonable notice of the commencing date or dates and duration of the period of 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 which he would have been entitled to receive from the employer under the arrangement current immediately prior to the holiday if the day had not been a day of holiday and he had worked thereon for the number of hours usually worked by him excluding overtime on that day of the week:

Provided that payment of the said holiday remuneration is subject to the condition that the worker presents himself for employment on the first working day following the holiday or, if he fails to do so, failure is by reason of the proved illness of, or accident to, the worker or with the consent of the employer.

(2) In relation to a piece worker, a worker remunerated by a system of payment by results or a worker in receipt of a bonus the amount of which fluctuates according to output the provisions of sub-paragraph (1) of this paragraph shall have effect as if for the words "under the arrangement current immediately prior to the holiday" there were substituted the words "if he had been employed as a time worker at the general minimum time rate then applicable to him increased by 20 per cent. and".

(3) Holiday remuneration in respect of any holiday allowed under Part II of the Schedule shall be paid to the worker not later than on the pay day on which the wages for the pay week including the first working day following the holiday are paid:

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-paragrah (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 of this Schedule) 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 under Order Y. (84)) 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 Y. (84).

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 31st day of the preceding March, 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 31st day of the preceding March, 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 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 20 hours and has performed some work for which statutory minimum remuneration is payable; or

(*b*) (i) he has been absent throughout the week, or

(ii) 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 reasons 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 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 eight 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 Y. (84), 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:—

"home worker" means a worker who works in his or her own home or any 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—

(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 amount 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 each period) or at the termination date as the case may require for a week's work if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime) and if he were paid:—

(*a*) where the worker is employed as a piece worker, is remunerated by a system

of payment by results or is in receipt of a bonus, the amount of which fluctuates according to output, the general minimum time rate then applicable to the worker, increased by 20 per cent;

(*b*) in the case of any other worker, the total remuneration which the worker would be entitled to receive from the employer under the arrangement current at the date of the annual holiday (or where the holiday is allowed in more than one period at the date of each period) or at the termination date as the case may require.

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 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 Toy Manufacturing Wages Council (Great Britain).

"total remuneration" means all payments paid or payable to the worker under his contract of employment for time worked, any long service or other bonus payable to the worker on a weekly, fortnightly or monthly basis and merit payments so payable but does not include any other payments.

"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 13th September 1971, 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 (Toy Manufacturing) (Holidays) Order 1970 (Order Y. (84)) which Order is revoked.

New provisions are printed in italics.