STATUTORY INSTRUMENTS

1968 No. 1321

WAGES COUNCILS

The Wages Regulation (Wholesale Mantle and Costume) (Holidays) Order 1968

Made - - - 15*th August* 1968

Coming into Operation 13*th September* 1968

Whereas the Secretary of State has received from the Wholesale Mantle and Costume Wages Council (Great Britain) the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Secretary of State in exercise of her powers under section 11 of the Wages Councils Act 1959(a), and of all other powers enabling her in that behalf, hereby makes the following Order :—

1. This Order may be cited as the Wages Regulation (Wholesale Mantle and Costume) (Holidays) Order 1968.

2.—(1) In this Order the expression "the specified date" means the 13th September 1968, 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 (Wholesale Mantle and Costume) (Holidays) Order 1967(c) shall cease to have effect.

Signed by order of the Secretary of State.
15th August 1968.

A. A. Jarratt,
Deputy Under Secretary of State,
Department of Employment and Productivity.

(a) 1959 c. 69.
(b) 1889 c. 63.
(c) S.I. 1967/1363 (1967 III, p. 4019).

SCHEDULE

HOLIDAYS AND HOLIDAY REMUNERATION

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 (Wholesale Mantle and Costume) (Holidays) Order 1967 (Order W.M. (78)).

PART I

APPLICATION

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

(2) For the purposes of this Schedule a homeworker 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 has been in his employment for a period of not less than six weeks immediately preceding the customary holiday and has worked for the employer during the whole or part of that period and is in his employment on the day of 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 one other day (being a day 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

four 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 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 theron and, in lieu of any such holiday on which he so works for the employer, 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 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) 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 the date on which the provisions of this Schedule become effective and 30th September 1968 and between 6th April and 30th September in each succeeding year, 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 in that year for any of the periods of employment (calculated in accordance with the provisions of paragraph 10) specified in the following table, and the duration of the annual holiday shall in the case of each such worker be related to that period as follows:—

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	*18 days*	*At least 48 weeks*	*15 days*
„ „ *46* „	*17* „	„ „ *45* „	*14* „
„ „ *44* „	*16* „	„ „ *42* „	*13* „
„ „ *42* „	*15* „	„ „ *39* „	*12* „
„ „ *40* „	*14* „	„ „ *36* „	*11* „
„ „ *38* „	*13* „	„ „ *33* „	*10* „
„ „ *36* „	*12* „	„ „ *30* „	*9* „
„ „ *34* „	*11* „	„ „ *27* „	*8* „
„ „ *31* „	*10* „	„ „ *24* „	*7* „
„ „ *28* „	*9* „	„ „ *21* „	*6* „
„ „ *25* „	*8* „	„ „ *18* „	*5* „
„ „ *22* „	*7* „	„ „ *15* „	*4* „
„ „ *19* „	*6* „	„ „ *12* „	*3* „
„ „ *16* „	*5* „	„ „ *8* „	*2* „
„ „ *13* „	*4* „	„ „ *4* „	*1 day*
„ „ *10* „	*3* „		
„ „ *7* „	*2* „		
„ „ *4* „	*1 day*		

(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 respect of a period of employment during the 12 months immediately preceding 6th April in any year shall not exceed in the aggregate *three times the number of days constituting the worker's normal working week*;

(*b*) where before 17th September in any holiday season a worker and his employer enter into an agreement in writing that the worker shall be allowed after the end of the holiday season and before 6th April next following, days of holiday not exceeding twice the number of days constituting his normal working week, being the whole or part of the annual holiday for which he has qualified under this paragraph, any such days of annual holiday may, subject to the provisions of paragraph 4, be allowed in accordance with the agreement and if so allowed shall be treated for the purposes of this Schedule as having been allowed during the holiday season;

(*c*) the duration of the worker's annual holiday during the holiday season ending on 30th September 1968 shall be reduced by any days of holiday with pay (not being days of customary holiday) which have been allowed to him by the employer during the period from and including 6th April 1968 to the date on which the provisions of this Schedule become effective.

(3) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1968, the period commencing on 6th April 1968 and ending on 30th September 1968, and in relation to each subsequent year, the period commencing on 6th April and ending on 30th September 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 and days of 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.

(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) 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 (other than the worker's weekly short day) falling within the holiday season or, by agreement between the employer and the worker or his representative, after the holiday season but before the beginning of the next following holiday season.

(4) Subject to the foregoing 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 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) 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 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 during the 12 months ended on 5th April in the preceding calendar year;

or (*b*) the appropriate statutory minimum remuneration to which he would have been entitled as a time worker if the day had not been a day of holiday and he had been employed on work for which statutory minimum remuneration is payable:

(i) in the case of a worker normally employed for more than 30 hours a week, for 8 hours, or

(ii) in the case of a worker normally employed for 30 hours a week or less, for 4 hours.

(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 week-day 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 pay-day on which the wages for the first working day following the customary holiday are paid.

(5) Holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid on the pay-day on which the 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 the conditions specified in sub-paragraph (2) 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 as holiday remuneration by his employer in respect thereof, on the last pay-day preceding such annual holiday, whichever of the following amounts is the greater:—

(*a*) an amount equal to *three fifty-seconds* of the total remuneration paid by the employer to the worker during the 12 months ended on 5th April immediately preceding the holiday; or

(*b*) one day's holiday pay (as defined in paragraph 11) in respect of each day of annual holiday.

(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 the provisions of Order W.M. (78)) in respect of employment during any of the periods referred to in that paragraph or that Order, 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 W.M. (78).

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 accured holiday remuneration in accordance with this paragraph.

(2) Accrued holiday remuneration shall be payable in accordance with the following table if the worker has in the 12 months commencing on 6th April 1967, and thereafter in any period of 12 months commencing on 6th April been employed for any of the periods of employment specified in that table.

(3) Accrued holiday remuneration is not payable in respect of any period of employment for which the worker has been allowed or become entitled to be allowed an annual holiday under this Schedule.

(4) Subject to the provisions of sub-paragraph (5) hereof, where a worker has been allowed in a holiday season part only of the annual holiday for which he has qualified under this Schedule or under Order W.M. (78) and his employment is terminated before he becomes entitled to the rest of that holiday the accrued holiday remuneration payable shall be:—

(*a*) in the case of a worker who has qualified for days of annual holiday exceeding twice the number of days constituting his normal working week and who has been allowed as days of annual holiday not less than twice the number of days constituting his normal working week, or, where the circumstances in sub-paragraph (3) of paragraph 4 are applicable, that number of days reduced by one:—

(i) in respect of the days of holiday for which he has qualified during the 12 months ended on 5th April immediately preceding the termination of his employment, the holiday remuneration due in respect thereof calculated in accordance with the provisions of paragraph 7 less the amount received by him in respect of the part of the holiday which has been allowed; and

(ii) in respect of any period of employment since the said 5th April, the amount calculated in accordance with the following table;

(*b*) in the case of any other worker, the appropriate amount under the following table in respect of the qualifying period of employment less the amount received by the worker in respect of that part of the holiday which has been allowed.

(5) 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 W.M. (78) in respect of the same period of employment or part thereof.

TABLE OF ACCRUED HOLIDAY REMUNERATION

Column 1 Period of employment calculated in accordance with the provisions of paragraph 10	Column 2 Workers with a normal working week of 6 days Accrued holiday remuneration	Column 3 Workers with a normal working week of 5 days or less Accrued holiday remuneration	Column 4
At least 48 weeks ..	*Three times the amount in Col. 4*	*Three times the amount in Col. 4*	The amount which the worker would be entitled to receive from his employer, at the date of the termination of his employment, 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 as a time worker 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.
„ „ 46 „ ..	*Two and five-sixths times the amount in Col. 4*	*Two and four-fifths times the amount in Col. 4*	
„ „ 45 „ ..	*Two and two-thirds* „ „ „ „ „ „	*Two and four-fifths times the amount in Col. 4*	
„ „ 44 „ ..	*Two and two-thirds* „ „ „ „ „ „	*Two and three-fifths* „ „ „ „ „ „	
„ „ 42 „ ..	*Two and one-half* „ „ „ „ „ „	*Two and three-fifths* „ „ „ „ „ „	
„ „ 40 „ ..	*Two and one-third* „ „ „ „ „ „	*Two and two-fifths* „ „ „ „ „ „	
„ „ 39 „ ..	*Two and one-sixth* „ „ „ „ „ „	*Two and two-fifths* „ „ „ „ „ „	
„ „ 38 „ ..	*Two and one-sixth* „ „ „ „ „ „	*Two and one-fifth* „ „ „ „ „ „	
„ „ 36 „ ..	*Twice the amount in Col. 4*	*Two and one-fifth* „ „ „ „ „ „	
„ „ 34 „ ..	*One and five-sixths times the amount in Col. 4*	*Twice the amount in Col. 4*	
„ „ 33 „ ..	*One and two-thirds* „ „ „ „ „ „	*Twice the amount in Col. 4*	
„ „ 31 „ ..	*One and two-thirds* „ „ „ „ „ „	*One and four-fifths times the amount in Col. 4*	
„ „ 30 „ ..	*One and one-half* „ „ „ „ „ „	*One and four-fifths* „ „ „ „ „ „	
„ „ 28 „ ..	*One and one-half* „ „ „ „ „ „	*One and three-fifths* „ „ „ „ „ „	
„ „ 27 „ ..	*One and one-third* „ „ „ „ „ „	*One and three-fifths* „ „ „ „ „ „	
„ „ 25 „ ..	*One and one-third* „ „ „ „ „ „	*One and two-fifths* „ „ „ „ „ „	
„ „ 24 „ ..	*One and one-sixth* „ „ „ „ „ „	*One and two-fifths* „ „ „ „ „ „	
„ „ 22 „ ..	*One and one-sixth* „ „ „ „ „ „	*One and one-fifth* „ „ „ „ „ „	
„ „ 21 „ ..	*The amount in Col. 4*	*One and one-fifth* „ „ „ „ „ „	
„ „ 19 „ ..	*The amount in Col. 4*	*The amount in Col. 4*	
„ „ 18 „ ..	*Five-sixths of the amount in Col. 4*	*The amount in Col. 4*	
„ „ 16 „ ..	*Five-sixths* „ „ „ „ „ „	*Four-fifths of the amount in Col. 4*	
„ „ 15 „ ..	*Two-thirds* „ „ „ „ „ „	*Four-fifths* „ „ „ „ „ „	
„ „ 13 „ ..	*Two-thirds* „ „ „ „ „ „	*Three-fifths* „ „ „ „ „ „	
„ „ 12 „ ..	*One-half* „ „ „ „ „ „	*Three-fifths* „ „ „ „ „ „	
„ „ 10 „ ..	*One-half* „ „ „ „ „ „	*Two-fifths* „ „ „ „ „ „	
„ „ 8 „ ..	*One-third* „ „ „ „ „ „	*Two-fifths* „ „ „ „ „ „	
„ „ 7 „ ..	*One-third* „ „ „ „ „ „	*One-fifth* „ „ „ „ „ „	
„ 4 „ ..	*One-sixth* „ „ „ „ „ „	*One-fifth* „ „ „ „ „ „	

(6) Notwithstanding the provisions of the foregoing table, the accrued holiday remuneration payable to a worker who has been employed by the employer for the whole of the 12 months ended on 5th April immediately preceding the termination of his employment shall be as follows:—

(*a*) in respect of that 12 months an amount equal to the holiday remuneration for the days of annual holiday for which he has qualified, calculated in accordance with the provisions of sub-paragraph (1) of paragraph 7; and

(*b*) in respect of any period of employment since the said 5th April, the amount calculated in accordance with the foregoing table.

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*) in the case of a worker other than a part-time worker, he has worked for the employer for not less than 20 hours and has performed some work for which statutory minimum remuneration is payable;

(*b*) in the case of a part-time worker, he has worked for the employer and has performed some work for which statutory minimum remuneration is payable;

(*c*) in the case of any worker—

(i) he has worked for the employer for less than 20 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 four in the aggregate in any such period); or

(ii) 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 W.M. (78), and on any other day of holiday with pay, 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 a customary holiday, for 8 hours if the worker is normally employed for more than 30 hours a week or for 4 hours if he is normally employed for 30 hours a week or less, or

(*b*) where the holiday is a day of annual holiday or any other day of holiday with pay, 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 twelve 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 remuneration which the worker would be entitled to receive from his employer at the date of the annual holiday 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 as a time worker 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 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 or less ...	one-quarter.

"PART-TIME WORKER" means a worker who normally works for the employer for less than 20 hours a week by reason only of the fact that he does not hold himself out as normally available for work for more than the number of hours he normally works in the week.

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

"WAGES REGULATION ORDER" means a wages regulation order made by the Secretary of State to give effect to proposals submitted to her by the 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 13th September 1968, 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 (Wholesale Mantle and Costume) (Holidays) Order 1967 (Order W.M. (78)), which Order is revoked.

New provisions are printed in italics.