EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order, which has effect from the 21st December, 1951, amends Order A. (43) by increasing the statutory minimum remuneration payable to workers in relation to whom the Aerated Waters Wages Council (England and Wales) operates. New provisions in the Schedule are printed in italics.

The Aerated Waters Wages Council (England and Wales) Wages Regulation (Holidays) Order, 1951

1951 No. 272

Made - - - - 19*th February*, 1951
Coming into Operation 16*th March*, 1951

A. (42)

Whereas the Minister of Labour and National Service (hereinafter in this Order referred to as " the Minister ") has received from the Aerated Waters Wages Council (England and Wales) (hereinafter in this Order referred to as " the Council ") the wages regulation proposals set out in the Schedule hereto, being proposals for requiring workers in relation to whom the Council operates to be allowed holidays by their employers and for fixing holiday remuneration to be paid by their employers to those workers in substitution for the holidays provided for, and the holiday remuneration fixed by the Aerated Waters Wages Council (England and Wales) Wages Regulation (Holidays) Order, 1948(**a**) (hereinafter in this Order referred to as " Order A. (35) "), as amended by the Aerated Waters Wages Council (England and Wales) Wages Regulation Order, 1949(**b**) (hereinafter in this Order referred to as " Order A. (37) ");

Now, therefore, the Minister, by virtue of the powers conferred on him by section 10 of the Wages Councils Act, 1945(**c**), and of all other powers in that behalf, hereby makes the following Order:—

Short title and interpretation

1.—(1) This Order may be cited as the Aerated Waters Wages Council (England and Wales) Wages Regulation (Holidays) Order, 1951.

(2) In this Order the expression " the specified date " means the 16th day of March, 1951, 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.

(3) The Interpretation Act, 1889(**d**), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Fixing of holidays and holiday remuneration and revocation of Order A. (35)

2.—(1) Effect is hereby given to the said wages regulation proposals set out in the Schedule hereto.

(**a**) S.I. 1948 (No. 992) I, p. 4423.
(**b**) S.I. 1949 (No. 1348) I, p. 4127.
(**c**) 8 & 9 Geo. 6. c. 17.
(**d**) 52 & 53 Vict. c. 63.

(2) The provisions of the Schedule hereto shall have effect as from the specified date and as from that date Order A. (35)(a), as amended by Order A. (37)(b), shall cease to have effect.

Signed by order of the Minister of Labour and National Service this 19th day of February, 1951.

Godfrey H. Ince,
Secretary,
Ministry of Labour and National Service.

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 Order A. (35) as amended by Order A. (37).

PART I
APPLICATION

Paragraph 1

This Schedule applies to every worker for whom statutory minimum remuneration has been fixed, *except that Part II of this Schedule shall not apply to workers who are not full time workers or to workers who are normally employed as driver-salesmen, delivery workers or mates (as defined in paragraph 12 of this Schedule).*

PART II
CUSTOMARY HOLIDAYS

Paragraph 2

(1) *An employer shall allow to every worker in his employment to whom this Schedule applies (except workers who are not full time workers and workers who are normally employed as driver-salesmen, delivery workers or mates), a holiday (hereinafter in this Schedule 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 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, or accident to, the worker) has worked for the employer throughout the last six working days on which work was available to him immediately preceding the customary holiday.*

(2) *The said customary holidays are:—*

(a) *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 and August Bank Holiday and any day proclaimed as an additional Bank Holiday or as a public holiday throughout England and Wales, or*

(b) *in the case of each of the said days such week-day as may be substituted therefor, being either 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 in this Schedule referred to as a "holiday in lieu of a customary holiday") on a week-day being a day upon which he would normally work, within the period of four weeks next ensuing.*

(a) S.I. 1948 (No. 992) I, p. 4423. (b) S.I. 1949 (No. 1348) I, p. 4127.

(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 of this Schedule.*

PART III

ANNUAL HOLIDAYS

Paragraph 3

(1) In addition to the holidays which may be allowed to a worker under the provisions of Part II of this Schedule and subject to the provisions of sub-paragraph (2) of this paragraph and to the provisions of paragraph 4 of this Schedule, an employer shall, between the 31st day of March, and the 29th day of October, 1951, and in each succeeding year between the 31st day of March and the Monday next preceding the 31st October (hereinafter in this Schedule referred to as "the holiday season") allow a holiday (hereinafter in this Schedule referred to as an "annual holiday") to every worker in his employment to whom this Part of this Schedule applies who was employed by him during the twelve months immediately preceding the commencement of the holiday season in that year for any of the periods of employment 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 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 ...	12 days	10 days	8 days	6 days
" " 44 " ...	11 "	9 "	7 "	5 "
" " 40 " ...	10 "	8 "	6 "	5 "
" " 36 " ...	9 "	7 "	6 "	4 "
" " 32 " ...	8 "	6 "	5 "	4 "
" " 28 " ...	7 "	5 "	4 "	3 "
" " 24 " ...	6 "	5 "	4 "	3 "
" " 20 " ...	5 "	4 "	3 "	2 "
" " 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 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.

Paragraph 4

(1) Annual holidays 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 the intervention of a customary holiday on which the worker is not required to work, or a holiday in lieu of a customary holiday or of some other holiday.

Provided that where the duration of an annual holiday which an employer is required to allow to a worker exceeds the period 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 worker shall be allowed the said annual holiday as follows:—

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

(b) as to the other period at any time during the holiday season or within the period ending on the 30th day of March immediately following the holiday season.

(2) *One day of the annual holiday may be allowed on a non-consecutive working day falling within the then current holiday season (or after the holiday season in the circumstances specified in* (b) *of the proviso to sub-paragraph* (1) *of this paragraph) where the said annual holiday, or as the case may be, such separate period is allowed immediately after a customary holiday on which a worker is not required to work or so that such a holiday intervenes.*

(3) Subject to the provisions of sub-paragraph (1) of this paragraph, any day of annual holiday under this Schedule:—

(a) may be allowed on a day on which the worker is entitled to a half holiday under any enactment other than the Wages Councils Act, 1945;

(b) shall not be allowed on any whole day of holiday to which the worker is so entitled.

Paragraph 5

An employer shall give to a worker reasonable notice of the commencing date or dates and 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

Paragraph 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 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 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 (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 two working days following the holiday and works throughout those days.

(2) *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 second working day following the said holiday.*

(3) *The 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 second working day following the holiday in lieu of the 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 conditions specified in sub-paragraph* (1) *of this paragraph shall not apply.*

B. ANNUAL HOLIDAYS

Paragraph 7

(1) Subject to the provisions of paragraph 10 of this Schedule, 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, remuneration in accordance with the following table:—

TABLE OF ANNUAL HOLIDAY REMUNERATION

Column 1 Period of annual holiday	Column 2 Holiday remuneration for workers with a normal working week of:—				Column 3
	Six days	Five days	Four days	Three days or less	
12 days	Twice the amount in Col. 3.	—	—	—	The amount which the worker would be entitled to receive from his employer, at the date of the holiday, 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 paid at the appropriate rate of statutory minimum remuneration for time work, fixed by a wages regulation order in respect of the worker, for work to which that order applies and at the same rate for work (if any) to which that order does not apply.
11 days	One and five-sixths of the amount in Col. 3.	—	—	—	
10 days	One and two-thirds of the amount in Col. 3.	Twice the amount in Col. 3.	—	—	
9 days	One and one-half of the amount in Col. 3.	One and four-fifths of the amount in Col. 3.	—	—	
8 days	One and one-third of the amount in Col. 3.	One and three-fifths of the amount in Col. 3.	Twice the amount in Col. 3.	—	
7 days	One and one-sixth of the amount in Col. 3.	One and two-fifths of the amount in Col. 3.	One and three-quarters of the amount in Col. 3.	—	
6 days	The amount in Col. 3	One and one-fifth of the amount in Col. 3.	One and one-half of the amount in Col. 3.	Twice the amount in Col. 3.	
5 days	Five-sixths of the amount in Col. 3.	The amount in Col. 3	One and one-quarter of the amount in Col. 3.	One and two-thirds of the amount in Col. 3.	
4 days	Two-thirds of the amount in Col. 3.	Four-fifths of the amount in Col. 3.	The amount in Col. 3	One and one-third of the amount in Col. 3.	
3 days	One-half of the amount in Col. 3.	Three-fifths of the amount in Col. 3.	Three-quarters of the amount in Col. 3.	The amount in Col. 3	
2 days	One-third of the amount in Col. 3.	Two-fifths of the amount in Col. 3.	One-half of the amount in Col. 3.	Two-thirds of the amount in Col. 3.	
1 day	One-sixth of the amount in Col. 3.	One-fifth of the amount in Col. 3.	One-quarter of the amount in Col. 3.	One-third of the amount in Col. 3.	

(2) In the application of the provisions of the foregoing table to the case of a piece worker the appropriate minimum remuneration for time work is the appropriate minimum rate that would have been applicable to him if he had been employed as a time worker.

(3) Where under the provisions of paragraph 4 of this Schedule an annual holiday is taken in more than one period, the holiday remuneration shall be apportioned accordingly.

Paragraph 8

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 accrued holiday remuneration in accordance with the following paragraph.

Paragraph 9

(1) Subject to the provisions of this paragraph accrued holiday remuneration shall be payable in accordance with the following Table if the worker has in the 12 months commencing on 31st March, 1950, and thereafter in any period of 12 months commencing on the 31st March, been employed for any of the periods of employment specified in Column 1 of that Table.

(2) 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.

(3) Subject to the provisions of sub-paragraph (4) 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 and his employment is terminated before he becomes entitled to the rest of that holiday the accrued holiday remuneration payable shall be 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.

(4) Any accrued holiday remuneration payable under the following Table shall be reduced by the amount of any accrued holiday remuneration already paid by the employer to the worker in pursuance of this Schedule or of the Schedule to Order A. (35) as amended by Order A. (37) in respect of the same period of employment or part thereof.

TABLE OF ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

Column 1 Period of employment	Column 2 Accrued holiday remuneration for workers with a normal working week of:—				Column 3
	Six days	Five days	Four days	Three days or less	
After 48 weeks' employment calculated in accordance with the provisions of paragraph 11 of this Schedule.	Twice the amount in Col. 3.	Twice the amount in Col. 3.	Twice the amount in Col. 3.	Twice the amount in Col. 3.	The amount which the worker would be entitled to receive from his employer, at the date of the termination of his employment, 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 paid at the appropriate rate of statutory minimum remuneration for time work, fixed by a wages regulation order in respect of the worker, for work to which that order applies and at the same rate for work (if any) to which that order does not apply.
After 44 weeks' such employment.	One and five-sixths of the amount in Col. 3.	One and four-fifths of the amount in Col. 3.	One and three-quarters of the amount in Col. 3.	One and two-thirds of the amount in Col. 3.	
After 40 weeks' such employment.	One and two-thirds of the amount in Col. 3.	One and three-fifths of the amount in Col. 3.	One and one-half of the amount in Col. 3.	One and two-thirds of the amount in Col. 3.	
After 36 weeks' such employment.	One and one-half of the amount in Col. 3.	One and two-fifths of the amount in Col. 3.	One and one-half of the amount in Col. 3.	One and one-third of the amount in Col. 3.	
After 32 weeks' such employment.	One and one-third of the amount in Col. 3.	One and one-fifth of the amount in Col. 3.	One and one-quarter of the amount in Col. 3.	One and one-third of the amount in Col. 3.	
After 28 weeks' such employment.	One and one-sixth of the amount in Col. 3.	The amount in Col. 3	The amount in Col. 3	The amount in Col. 3	
After 24 weeks' such employment.	The amount in Col. 3	The amount in Col. 3	The amount in Col. 3	The amount in Col. 3	
After 20 weeks' such employment.	Five-sixths of the amount in Col. 3	Four-fifths of the amount in Col. 3.	Three-quarters of the amount in Col. 3.	Two-thirds of the amount in Col. 3.	
After 16 weeks' such employment.	Two-thirds of the amount in Col. 3.	Three-fifths of the amount in Col. 3.	One - half of the amount in Col. 3.	Two-thirds of the amount in Col. 3.	
After 12 weeks' such employment.	One - half of the amount in Col. 3.	Two-fifths of the amount in Col. 3.	One - half of the amount in Col. 3.	One - third of the amount in Col. 3.	
After 8 weeks' such employment.	One - third of the amount in Col. 3.	One - fifth of the amount in Col. 3.	One-quarter of the amount in Col. 3.	One - third of the amount in Col. 3.	
After 4 weeks' such employment.	One-sixth of the amount in Col. 3.	One - fifth of the amount in Col. 3.	—	—	

(5) In the application of the provisions of the foregoing table to the case of a piece worker the appropriate statutory minimum remuneration for time work is the appropriate minimum rate that would have been applicable to him if he had been employed as a time worker.

Paragraph 10

Where any accrued holiday remuneration has been paid by the employer to the worker (in accordance with the provisions of this Schedule or of the Schedule to Order A. (35) as amended by Order A. (37)), in respect of employment during any of the periods of twelve months referred to in sub-paragraph (1) of the last preceding 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 of twelve months 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.

PART V

GENERAL

Paragraph 11

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:—

(a) as if he were employed for a week in respect of any week in which—

(i) he has worked for the employer for not less than three days and has performed some work for which statutory minimum remuneration is payable; or

(ii) *he has worked for the employer for less than three days,* or has performed no work, 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 four in the period of twelve months immediately preceding the commencement of the holiday season; or

(iii) *he has worked for the employer for less than three days,* or has performed no work, solely because he has been suspended 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 eight in the period of twelve months last mentioned, and

(b) as if he were employed on any day of holiday allowed under the provisions of this Schedule, and for the purpose of the provisions of (a) of this paragraph, a worker who is absent on such a holiday shall be treated as having worked thereon for the employer on work to which statutory minimum remuneration applies.

Paragraph 12

In this Schedule, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"DELIVERY WORKER" means a worker who normally is in charge of and wholly or mainly engaged in driving a mechanically propelled or horse drawn vehicle and in work in connection with the vehicle and its load (if any) while on the road and, if so required by the employer, in washing the vehicle when not on the road.

"DRIVER-SALESMAN" means a worker who normally is wholly or mainly engaged in the duties of a delivery worker as defined above and in the sale of goods to and the collection of monies from customers.

"*FULL TIME WORKER*" *means a worker who normally works for the employer for at least* 30 *hours per week and performs some work to which statutory minimum remuneration applies.*

"MATE" means a worker, other than a driver-salesman or delivery worker, who is required to travel on or to accompany a mechanically propelled or horse drawn vehicle for the purpose of assisting the driver-salesman or delivery worker in charge of the vehicle.

"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 twelve months immediately preceding the commencement of the holiday season, or, where under paragraphs 8 and 9 of this Schedule 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—

(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 statutory minimum remuneration (other than holiday remuneration) which has been fixed by a wages regulation order.

"WAGES REGULATION ORDER" means a wages regulation order made by the Minister to give effect to proposals submitted to him by the Aerated Waters Wages Council (England and Wales).

"WEEK" means pay week.

Paragraph 13

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, but is intended to indicate its general purport.)

The Schedule to this Order, which has effect from the 16th March, 1951, sets out the annual holidays and certain other days of holiday (referred to as "customary holidays") which an employer is required to allow to workers in relation to whom the Aerated Waters Wages Council (England and Wales) operates, and the holiday remuneration payable to such workers.

It supersedes the Schedule to Order A. (35) as amended by Order A. (37).

New provisions in the Schedule are printed in italics.