1958 No. 1063

The Wages Regulation (Sugar Confectionery and Food Preserving) (Holidays) Order, 1958

Made - - - -	*25th June,* 1958
Coming into Operation	*11th July,* 1958

Whereas the Minister of Labour and National Service (hereafter in this Order referred to as "the Minister") has received from the Sugar Confectionery and Food Preserving Wages Council (Great Britain) (hereafter in this Order referred to as "the Council") the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Minister, by virtue of the powers conferred on him by section 10 of the Wages Councils Act, 1945(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 (Sugar Confectionery and Food Preserving) (Holidays) Order, 1958.

2.—(1) In this Order the expression "the specified date" means the 11th day of July, 1958, 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), applies to the interpretation of this Order as it applies to the interpretation of an Act 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 Sugar Confectionery and Food Preserving Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1949(c), shall cease to have effect.

Signed by order of the Minister of Labour and National Service this 25th day of June, 1958.

Mary Smieton,
Deputy 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 the Sugar Confectionery and Food Preserving Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1949 (hereafter in this Order referred to as "Order F. (51)").

(a) 8 & 9 Geo. 6. c. 17. (b) 52 & 53 Vict. c. 63.
(c) S.I. 1949/1577 (1949 I, p. 4674).

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 in his employment to whom this Schedule applies a holiday (hereafter in this Schedule referred to as a "customary holiday") in each year on the days specified in the next following sub-paragraph provided that the worker has been in his employment for a period of not less than one week immediately preceding the customary holiday 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 working day on which work was available to him immediately prior to the 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 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 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 such week-day as may be substituted therefor by agreement between the employer and the worker.

(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 holiday on which he so works, the worker shall 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 three 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 of this Schedule.

PART III—ANNUAL HOLIDAYS

3.—(1) In addition to the holidays specified in Part II of this Schedule and subject to the provisions of sub-paragraph (2) and sub-paragraph (4) of this paragraph an employer shall between the date on which this Schedule becomes effective and the 30th day of September, 1958, and in each succeeding year between the 1st day of April and the 30th day of September, allow a holiday (hereafter in this Schedule 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 twelve months 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 of this Schedule) specified 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	
	Where the worker's normal working week is 6 days	Where the worker's normal working week is 5 days or less
Not less than 48 weeks	12 days	10 days
,, ,, ,, 44 ,, but less than 48 weeks ...	11 ,,	9 ,,
,, ,, ,, 40 ,, ,, ,, ,, 44 ,, ...	10 ,,	8 ,,
,, ,, ,, 36 ,, ,, ,, ,, 40 ,, ...	9 ,,	7 ,,
,, ,, ,, 32 ,, ,, ,, ,, 36 ,, ...	8 ,,	6 ,,
,, ,, ,, 28 ,, ,, ,, ,, 32 ,, ...	7 ,,	6 ,,
,, ,, ,, 24 ,, ,, ,, ,, 28 ,, ...	6 ,,	5 ,,
,, ,, ,, 20 ,, ,, ,, ,, 24 ,, ...	5 ,,	4 ,,
,, ,, ,, 16 ,, ,, ,, ,, 20 ,, ...	4 ,,	3 ,,
,, ,, ,, 12 ,, ,, ,, ,, 16 ,, ...	3 ,,	3 ,,
,, ,, ,, 8 ,, ,, ,, ,, 12 ,, ...	2 ,,	2 ,,

(2) Notwithstanding the provisions of sub-paragraph (1) of this 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 the 30th day of September, 1958, shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order F. (51) between the 1st day of April and the date upon which the provisions of this Schedule become effective.

(3) Subject to the provisions of the next following sub-paragraph, the expression "holiday season" in this Schedule means in relation to the year 1958, the period commencing on the 1st day of April, 1958, and ending on the 30th day of September, 1958, and in relation to each subsequent year the period commencing on the 1st day of April and ending on the 30th day of September in that year.

(4) Where special circumstances exist the holiday season may be varied in any year on application by the employer to and with the approval of the Council and, in the event of such variation, any reference in this Schedule to a "holiday season" shall be construed accordingly.

Any such application shall be made before the 1st day of July in the year 1958 and before the 1st day of April in any succeeding 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) Where the number of days of annual holiday for which a worker has qualified exceeds the number of days constituting his normal working week, 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.

(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 referred to in sub-paragraph (5) of this paragraph 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 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 or within a period of not more than three months before or after the holiday season.

(5) A day of annual holiday under this Schedule shall not be allowed on any day on which the worker is entitled to a day of holiday or to a half-holiday under any enactment other than the Wages Council's Act, 1945.

5. The employer shall give to a worker not less than 28 days before the commencement of his annual holiday, 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:

Provided that—

(*a*) where in any year a holiday season has been extended in pursuance of paragraph 3 (4) of this Schedule beyond the 30th day of September such notice shall be given not less than twenty-eight days before the 16th September in that year;

(*b*) any notice relating to an annual holiday in 1958 given under paragraph 5 of the Schedule to Order F. (51) shall have effect as if it were given under this paragraph.

PART IV

HOLIDAY REMUNERATION

CUSTOMARY HOLIDAYS

6.—(1) For each day of holiday which a worker is allowed under Part II of this Schedule he shall be paid by the employer 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 presents himself for employment within one hour of the usual starting hour on the first working day on which work is available to him 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) Holiday remuneration in respect of any customary holiday shall be paid by the employer to the worker *not later than* the day on which the wages for the *first working day following* the holiday are paid.

(3) Holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid *not later than* the day on which the wages for the *first working day following* that holiday in lieu are paid:

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, in which event the condition specified in sub-paragraph (1) of this paragraph shall not apply.

ANNUAL HOLIDAYS

7.—(1) Subject to the provisions of paragraph 9 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, holiday remuneration in accordance with the following table :—

TABLE OF HOLIDAY REMUNERATION

Col. 1	Col. 2		Col. 3
Period of annual holiday	Holiday remuneration for a worker with a normal working week of—		
	6 days	5 days or less	
12 days...	Twice the amount in Col. 3.	—	The amount which the worker would be entitled to receive from his employer for a 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 his average hourly rate of earnings (as defined in paragraph 11):* *Provided that where a worker's average hourly rate of earnings is less than his hourly general minimum time rate (as defined in paragraph 11) that hourly general minimum time rate shall be substituted for the average hourly rate in calculating his holiday remuneration as aforesaid.*
11 ,, ...	One and five-sixths of the amount in Col. 3.	—	
10 ,, ...	One and two-thirds of the amount in Col. 3.	Twice the amount in Col. 3.	
9 ,, ...	One and one-half of the amount in Col. 3.	One and four-fifths of the amount in Col. 3.	
8 ,, ...	One and one-third of the amount in Col. 3.	One and three-fifths of the amount in Col. 3.	
7 ,, ...	One and one-sixth of the amount in Col. 3.	One and two-fifths of the amount in Col. 3.	
6 ,, ...	The amount in Col. 3	One and one-fifth of the amount in Col. 3.	
5 ,, ...	Five-sixths of the amount in Col. 3.	The amount in Col. 3	
4 ,, ...	Two-thirds of the amount in Col. 3.	Four-fifths of the amount in Col. 3.	
3 ,, ...	One-half of the amount in Col. 3.	Three-fifths of the amount in Col. 3.	
2 ,, ...	One-third of the amount in Col. 3.	Two-fifths of the amount in Col. 3.	

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

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

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 as accrued holiday remuneration :—

(1) in respect of his employment in the twelve months up to and including the 31st day of March immediately preceding the termination of the employment, a sum equal to the holiday remuneration for any days of annual holiday for which the worker 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 after the 31st day of March immediately preceding the termination of the employment, a sum equal to the holiday remuneration which would have been payable to him if he had been entitled to be allowed an annual holiday in respect of that employment at the time of leaving it:

Provided that—

(*a*) a worker shall not be entitled to the payment of accrued holiday remuneration if he has been dismissed on the grounds of grave misconduct connected with his employment and is so informed by the employer at the time of dismissal;

(*b*) *where during any period in respect of which the accrued holiday remuneration is payable, the worker has, at his written request, been allowed any day or days of holiday for which he has not qualified under the provisions of this Schedule, any accrued holiday remuneration payable as aforesaid may be reduced by the amount of any sum paid by the employer to the worker in respect of such day or days of holiday.*

9. Where under the provisions of paragraph 8 of this Schedule or of the provisions of Order F. (51) any accrued holiday remuneration has been paid by the employer to the worker, in respect of employment during either of the periods referred to in 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 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 the Schedule to Order F. (51).

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 performed some work for the employer for which statutory minimum remuneration is payable; or

(*b*) he has been absent throughout the week by leave of the employer; or

(*c*) he has been suspended throughout the week owing to shortage of work, or has performed no work solely by reason of proved illness or accident (provided that the number of weeks which may be treated as weeks of employment for such reasons shall not exceed 8 in any such period as aforesaid).

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule, 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 for the employer thereon 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:—

"AVERAGE HOURLY RATE OF EARNINGS" means the amount obtained by dividing the total remuneration paid or payable to the worker

by the employer in respect of the last four weeks in which the worker worked for the employer immediately preceding the commencement of the holiday season (or the date of termination of the employment where accrued holiday remuneration is being calculated under (2) of paragraph 8 of this Schedule), by the total number of hours worked (excluding hours of overtime) for the employer during that period; and for the purposes of this definition "remuneration" in the expression "total remuneration" includes any payments paid or payable to the worker under his contract of employment for time (other than hours of overtime) worked or piecework done by him, any productivity or long service bonuses payable to the worker on a weekly basis and merit payments so payable, but does not include any other payments.

"HOURLY GENERAL MINIMUM TIME RATE" means the hourly general minimum time rate (being statutory minimum remuneration) which is applicable to the worker (or in the case of a piece worker, would be applicable to him if he were a time worker) immediately preceding the date when the holiday remuneration or the accrued holiday remuneration (as the case may be), is payable.

"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 annual holiday, or, where under paragraph 8 of this Schedule accrued holiday remuneration is payable on the termination of the employment, in the twelve months immediately preceding the termination date:

Provided that—

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

(*b*) 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) which has been fixed by a wages regulation order made by the Minister to give effect to proposals submitted to him by the Council.

"WEEK" (except in Part II) 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, but is intended to indicate its general purport.)

This Order, which has effect from 11th July, 1958, 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 Sugar Confectionery and Food Preserving Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1949 (Order F. (51)), which is revoked.

New provisions are printed in italics.