STATUTORY INSTRUMENTS

1962 No. 790

WAGES COUNCILS

The Wages Regulation (Hair, Bass and Fibre) (Holidays) Order, 1962

Made - - - - 12*th April*, 1962
Coming into Operation 4*th May*, 1962

Whereas the Minister of Labour (hereafter in this Order referred to as "the Minister") has received from the Hair, Bass and Fibre Wages Council (Great Britain) the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Minister, by virtue of the powers conferred on him by 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 (Hair, Bass and Fibre) (Holidays) Order, 1962.

2.—(1) In this Order the expression "the specified date" means the 4th day of May, 1962, 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 Hair, Bass and Fibre Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1951(c), shall cease to have effect, and the Wages Regulation (Hair, Bass and Fibre) Order, 1960(d) shall have effect as if the Second Schedule were omitted.

Dated this 12th day of April, 1962.

John Hare,
Minister of Labour.

(a) 7 & 8 Eliz. 2. c. 69.
(b) 52 & 53 Vict. c. 63.
(c) S.I. 1951/784 (1951 II, p. 1037).
(d) S.I. 1960/2030 (1960 III, p. 3480).

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 Hair, Bass and Fibre Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1951(a) (hereinafter referred to as "Order H.B. (37)") as amended by the Second Schedule to the Wages Regulation (Hair, Bass and Fibre) Order, 1960(b) (Order H.B. (55)).

PART I

APPLICATION

1. This Schedule applies to every worker (other than an outworker) 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 (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 eight 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 working day on which work was available to him immediately preceding 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 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) 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 therefor by the employer, 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 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 employer shall allow to the worker a day's holiday (hereinafter referred to as a "holiday in lieu of a customary holiday") on a week-day within the period of two months next ensuing.

(a) S.I. 1951/784 (1951 II, p. 1037). (b) S.I. 1960/2030 (1960 III, p. 3480).

(4) A worker who is so 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. 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, 1962 and in each succeeding year between *6th April* 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 twelve 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 twelve months as follows:—

Period of employment	Duration of annual holiday where the worker's normal working week is:—			
	6 days	5 days	4 days	3 days
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 "	4 "	4 "	3 "
" " 20 "	5 "	3 "	3 "	2 "
" " 16 "	4 "	2 "	2 "	2 "
" " 12 "	3 "	2 "	2 "	1 day
" " 8 "	2 "	1 day	1 day	1 "

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 holiday shall be treated as consecutive notwithstanding that a Sunday, a customary holiday on which the worker is not required to work or a holiday in lieu of a customary holiday intervenes:

Provided that—

(*a*) where the duration of an annual holiday which the employer is required to allow to a worker exceeds the period constituting the worker's normal working week the said holiday may by agreement in writing made between the employer and the worker be allowed in two separate periods of such consecutive working days, if one of such periods is not less than the period constituting the worker's normal working week;

(*b*) one day of an annual holiday may be allowed on a non-consecutive working day falling within the holiday season *or with the consent of the worker on any working day prior to the commencement of the next holiday season* where the said annual holiday or such separate period, as the case may be, is allowed immediately after a customary holiday on which the worker is not required to work or so that such a customary holiday intervenes;

(*c*) the duration of the worker's annual holiday in the holiday season ending on 30th September, 1962, shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order H.B. (37) between *6th April*, 1962, and the date on which the provisions of this Schedule become effective.

(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.

(3) In this Schedule the expression "holiday season" means, in relation to an annual holiday during the year 1962, the period commencing on *6th April* and ending on 30th September, 1962, and, in relation to each subsequent year, the period commencing on *6th April* and ending on 30th September in that year.

5. An employer shall give a worker notice of the commencing date or dates and duration of the period or periods of his annual holiday. Such notice shall be given at least 28 days before the first day of the annual holiday or, where, under the provisions of paragraph 4, an annual holiday is taken in more than one period, before each separate period, and may be given individually to a 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 which a worker is allowed under Part II of this Schedule he shall be paid by the employer as holiday remuneration whichever of the following sums is the greater, that is to say either:—*

(*a*) (*i*) *in the case of a worker whose normal working week exceeds five days, one-sixth*

(*ii*) *in the case of a worker whose normal working week is five days, one-fifth*

(*iii*) *in the case of a worker whose normal working week is four days, one-quarter*

(*iv*) *in the case of a worker whose normal working week is three days, one-third*

of the average weekly earnings (exclusive of overtime but including holiday remuneration) of the worker during the twelve 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 (as defined in paragraph 11) 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-sixth, one-fifth, one-quarter or one-third, as the case may require, of the average weekly earnings (exclusive of overtime but including holiday remuneration) of the worker (calculated as aforesaid) during the twelve months ended on 5th April in the preceding year; or

(b) a sum equal to the appropriate statutory minimum remuneration to which he would have been entitled if the day had not been a day of holiday and he had been employed on work entitling him to statutory minimum remuneration for the time normally worked by him on that day of the week:

Provided 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 the worker) presents himself for employment at the usual starting hour on the first working day following the holiday.

(2) The 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 pay week including the customary holiday are paid.

(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 for the week including that holiday in lieu of a customary holiday 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 and in that case the condition specified in 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 as holiday remuneration by his employer in respect thereof not later than the last pay day preceding such annual holiday—

(a) in the case of a worker who has been in the employment of the employer during the whole of the twelve months up to and including the 5th April immediately preceding the commencement of the holiday season whichever of the following sums is the greater, that is to say either:—

(i) a sum equal to two fifty-seconds of the total remuneration (as defined in paragraph 11) paid to him by the employer during the said twelve months; or

(ii) one day's holiday pay in respect of each day of annual holiday;

(b) in the case of any other worker:—

one day's holiday pay 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 Order H.B. (37)) in respect of employment during any of the periods referred to in paragraph 9 of this Schedule, 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 H.B. (37).

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 twelve months up to and including the immediately preceding 5th 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 his employment ; and

(2) in respect of any employment since the said 5th 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, and if paid at the rate of one day's holiday pay in respect of each day thereof.

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—

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

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

(ii) he has been absent throughout the week by reason of the proved illness of, or accident to, the worker, but not exceeding four weeks in the aggregate in the period of twelve months immediately preceding the commencement of the holiday season ; and

(*b*) 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 (*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.

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 worker who is usually wholly employed as a time worker, the general minimum time rate ordinarily applicable to the worker ;

(*b*) in the case of a worker who is usually employed on piece work,

(i) where the worker is aged over 18 years and a piece work basis time rate is applicable, a time rate equal to the piece work basis time rate ordinarily applicable to the worker,

(ii) in any other case the general minimum time rate which would be ordinarily applicable to the worker if he were employed as a time worker :

Provided that for the purposes of this definition—

(i) a rate ordinarily applicable to a worker shall be ascertained by reference to the work on which he has been mainly employed in the twelve months immediately prior to the holiday in the case of a customary holiday, the commencement of the holiday season in the case of an annual holiday or the termination date where accrued holiday remuneration is payable;

(ii) where a worker is usually employed partly on time work and partly on piece work, he shall be treated as having been usually employed wholly on piece work.

"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 twelve months immediately preceding the commencement of the holiday season, or, where under paragraphs 8 and 9, accrued holiday remuneration is payable on the termination of the employment, in the twelve months immediately preceding the termination date:

Provided that:—

(i) part of a day shall count as a day; and

(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 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 taken in more than one period, at the date of the first period) or at the termination date, as the case may be, 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 to which statutory minimum remuneration applies and at the same rate for any work for the same employer to which such remuneration does not apply, and in this definition "appropriate proportion" means—

where the worker's normal working week is six days—one-sixth
" " " " " " " five "—one-fifth
" " " " " " " four "—one-quarter
" " " " " " " three "—one-third

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

"TOTAL REMUNERATION" means any payments paid or payable to the worker under his contract of employment, for time (other than hours of overtime) worked or piece work done by him, holiday remuneration, any productivity or long service bonus payable to the worker on a weekly, fortnightly or monthly basis and merit payments so payable but does not include any other payments.

"WAGES REGULATION ORDER" means a wages regulation order made by the Minister to give effect to proposals submitted to him by the Hair, Bass and Fibre Wages Council (Great Britain).

"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, but is intended to indicate its general purport.)

This Order, which has effect from 4th May, 1962, 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 set out in the Hair, Bass and Fibre Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1951 (Order H.B. (37)), as amended by the Wages Regulation (Hair, Bass and Fibre) Order, 1960 (Order H.B. (55)). Order H.B. (37) is revoked.

New provisions are printed in italics.