STATUTORY INSTRUMENTS

1974 No. 1001

WAGES COUNCILS

The Wages Regulation (Dressmaking and Women's Light Clothing) (Scotland) (Holidays) (No. 2) Order 1974

Made - - - - 10*th June* 1974

Coming into Operation 8*th July* 1974

Whereas the Secretary of State has received from the Dressmaking and Women's Light Clothing Wages Council (Scotland) the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Secretary of State in exercise of powers conferred by section 11 of the Wages Councils Act 1959(a), as modified by Article 2 of the Counter-Inflation (Modification of Wages Councils Act 1959) Order 1973(b), and now vested in him (c), 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 (Dressmaking and Women's Light Clothing) (Scotland) (Holidays) (No. 2) Order 1974.

2.—(1) In this Order the expression "the specified date" means the 8th July 1974, 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(d) 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 (Dressmaking and Women's Light Clothing) (Scotland) (Holidays) Order 1974(e) shall cease to have effect.

Signed by order of the Secretary of State.

10th June 1974.

W. H. Marsh,
Assistant Secretary,
Department of Employment.

(a) 1959 c. 69.
(b) S.I. 1973/661 (1973 I, p. 2141).
(c) S.I. 1959/1769, 1968/729 (1959 I, p. 1795; 1968 II, p. 2108).
(d) 1889 c. 63.
(e) S.I. 1974/211 (1974 I, p. 732).

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 (Dressmaking and Women's Light Clothing) (Scotland) (Holidays) Order 1974 (hereinafter referred to as "Order W.D.S. (105)").

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 (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 one week (calculated in accordance with the provisions of paragraph 10) immediately preceding the customary holiday.

(2) The said customary holidays are:—

(*a*) New Year's Day (or the following day if New Year's Day falls on a Sunday)

The local Spring holiday;

The local Autumn holiday; and

Any day proclaimed as an additional bank holiday or a general holiday throughout Scotland:

Provided that, where in any establishment it is not the custom or practice to observe all or any of such days as holidays, another day or days, not fewer in number, may, by agreement between the employer and the worker, be substituted therefor;

(*b*) *Five* other days to be agreed between the employer and the worker.

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 1974, 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 for any of the periods of employment (calculated in accordance with the provisions of paragraph 10) specified below, 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	*20 days*	*At least 48 weeks*	*17 days*
„ „ *46* „	*19* „	„ „ *46* „	*16* „
„ „ *44* „	*18* „	„ „ *44* „	*15* „
„ „ *42* „	*17* „	„ „ *42* „	*14* „
„ „ *40* „	*16* „	„ „ *40* „	*13* „
„ „ *38* „	*14* „	„ „ *38* „	*12* „
„ „ *36* „	*13* „	„ „ 36 „	11 „
„ „ *34* „	*12* „	„ „ 33 „	10 „
„ „ *32* „	*11* „	„ „ 30 „	9 „
„ „ *30* „	*10* „	„ „ 27 „	8 „
„ „ 28 „	9 „	„ „ 24 „	7 „
„ „ 25 „	8 „	„ „ 21 „	6 „
„ „ 22 „	7 „	„ „ 18 „	5 „
„ „ 19 „	6 „	„ „ 15 „	4 „
„ „ 16 „	5 „	„ „ 12 „	3 „
„ „ 13 „	4 „	„ „ 8 „	2 „
„ „ 10 „	3 „	„ „ 4 „	1 day
„ „ 7 „	2 „		
„ „ 4 „	1 day		

(2) Notwithstanding the provisions of the 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 1974 and during the 12 months immediately preceding 6th April in any succeeding year shall not exceed in the aggregate three times the number of days constituting the worker's normal working week, *plus two days*;

(*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 all or part of the annual holiday for which he has qualified under this paragraph, any such days of annual holiday may 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 1974 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 under the provisions of Order W.D.S. (105), between 6th April 1974 and the date on which this Schedule becomes effective.

(3) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1974 the period commencing on 6th April 1974 and ending on 30th September 1974, 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 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 agreement between the employer or his representative and the worker or his representative, either during the holiday season or on any working day before the beginning of the next following holiday season.

(3) Where a customary holiday immediately precedes a period of annual holiday or occurs during such a period and the total number of days of annual holiday required to be allowed in the period under the foregoing provisions of this paragraph, together with any such customary holiday, exceeds the number of days constituting the worker's normal working week 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.

(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

6.—(1) For each day of customary holiday a worker shall be paid by the employer as holiday remuneration whichever of the following amounts is the greater:—

(*a*) (i) in the case of a worker employed in the retail branch of the trade whose normal working week exceeds five days, two-elevenths ... ... (ii) in the case of all other workers, one-fifth	of the average weeekly 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 the local Spring holiday (or a day substituted therefor under the proviso to sub-paragraph (2) of paragraph 2) falls after 5th April in any year, the holiday remuneration for any such holiday under this sub-paragraph shall be two elevenths or one-fifth, as the case may require, of the average weekly earnings of the worker during the 12 months ended on 5th April in the preceding calendar year,

or, (*b*) one-sixth, one-fifth, one-fourth or one-third (according as the number of days in the worker's normal working week is six, five, four or three respectively) of the amount which the worker would be entitled to receive from his employer at the date of the customary 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 and, for the purposes of this sub-paragraph, the appropriate rate of statutory minimum remuneration for time work in the case of a piece worker is the appropriate rate of statutory minimum remuneration that would have been applicable to him if he had been employed as a time worker.

(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) 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.

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 *seventeen two-hundred-and-sixtieths* of the total remuneration paid by the employer to the worker in the 12 months ended on 5th April immediately preceding the holiday season; 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.D.S. (92) or Order W.D.S. (105)) in respect of employment during any of the periods referred to in that paragraph or those Orders, 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.D.S. (92) or Order W.D.S. (105).

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 accrued 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 1973, 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.D.S. (92) or Order W.D.S. (105) 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 he 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.D.S. (92 or Order W.D.S. (105) in respect of the same period of employment or part thereof.

TABLE OF ACCRUED HOLIDAY REMUNERATION

(i) Workers with a normal working week of 6 days

Column 1 Period of employment calculated in accordance with the provisions of paragraph 10	Column 2 Accrued holiday remuneration	Column 3
At least 48 weeks	*Three and one-third times the amount in Column 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 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* "	*Three and one-sixth times the amount in Column 3*	
" " *44* "	*Three times the amount in Column 3*	
" " *42* "	*Two and five-sixths times the amount in Column 3*	
" " *40* "	*Two and two-thirds* " " " " " "	
" " *38* "	*Two and one-third* " " " " " "	
" " *36* "	*Two and one-sixth* " " " " " "	
" " *34* "	*Twice the amount in Column 3*	
" " *32* "	*One and five-sixths times the amount in Column 3*	
" " *30* "	*One and two-thirds* " " " " " "	
" " 28 "	One and one-half " " " " " "	
" " 25 "	One and one-third " " " " " "	
" " 22 "	One and one-sixth " " " " " "	
" " 19 "	The amount in Column 3	
" " 16 "	Five-sixths of the amount in Column 3	
" " 13 "	Two-thirds " " " " " "	
" " 10 "	One-half " " " " " "	
" " 7 "	One-third " " " " " "	
" " 4 "	One-sixth " " " " " "	

TABLE OF ACCRUED HOLIDAY REMUNERATION (*continued*)

(ii) Workers with a normal working week of 5 days or less

Column 1 Period of employment calculated in accordance with the provisions of paragraph 10	Column 2 Accrued holiday remuneration	Column 3
At least 48 weeks	*Three and two-fifths times the amount in Column 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 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* „	*Three and one-fifth* „ „ „ „ „ „	
„ „ *44* „	*Three times the amount in Column 3*	
„ „ *42* „	*Two and four-fifths times the amount in Column 3*	
„ „ *40* „	*Two and three-fifths* „ „ „ „ „ „	
„ „ *38* „	*Two and two-fifths* „ „ „ „ „ „	
„ „ 36 „	Two and one-fifth „ „ „ „ „ „	
„ „ 33 „	Twice the amount in Column 3	
„ „ 30 „	One and four-fifths times the amount in Column 3	
„ „ 27 „	One and three-fifths „ „ „ „ „ „	
„ „ 24 „	One and two-fifths „ „ „ „ „ „	
„ „ 21 „	One and one-fifth „ „ „ „ „ „	
„ „ 18 „	The amount in Column 3	
„ „ 15 „	Four-fifths of the amount in Column 3	
„ „ 12 „	Three-fifths „ „ „ „ „ „	
„ „ 8 „	Two-fifths „ „ „ „ „ „	
„ „ 4 „	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 paragraph 7(1); 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 any 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 16 hours and has performed some work for which statutory minimum remuneration is payable; or

(*b*) he has worked for the employer for less than 16 hours or he has been absent throughout the week, in either case 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 16 in the aggregate in any such qualifying period of employment); or

(*c*) 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 16 in the aggregate in any such qualifying period of employment);

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order W.D.S. (92) or Order W.D.S. (105) 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:—

"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 customary holiday in the case of a customary holiday, or, in the case of an annual holiday, 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 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.

"RETAIL BRANCH OF THE TRADE" means that branch of the trade in which the employer supplies the garment direct to the individual wearer and employs the worker direct.

"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 Dressmaking and Women's Light Clothing Wages Council (Scotland).

"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 8th July 1974, sets out the increased holidays which an employer is required to allow to workers in relation to whom the Dressmaking and Women's Light Clothing Wages Council (Scotland) operates, and the remuneration payable for those holidays, in substitution for the holidays and remuneration set out in the Wages Regulation (Dressmaking and Women's Light Clothing) (Scotland) (Holidays) Order 1974, (Order W.D.S. (105)). Order W.D.S. (105) is revoked.

New provisions are printed in italics.

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