1978 No. 94

WAGES COUNCILS

Baking Wages Regulation (Holidays) Order (Northern Ireland) 1978

Made . . . . . 3*rd March* 1978

Coming into operation . . . 14*th March* 1978

The Department of Manpower Services, in exercise of the powers conferred on it by section 10 of the Wages Councils Act (Northern Ireland) 1945(a), and now vested in it(b), hereby makes the following Order to give effect to wages regulation proposals received from the Baking Wages Council (Northern Ireland).

Citation

1. This Order may be cited as the Baking Wages Regulation (Holidays) Order (Northern Ireland) 1978.

Commencement

2. The wages regulation proposals set out in the Schedule shall come into operation on the specified date.

Interpretation

3. In this Order the expression "the specified date" means 14th March 1978, 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.

Sealed with the Official Seal of the Department of Manpower Services on 3rd March 1978.

(L.S.)

D. J. Perham
Senior Assistant Secretary

(a) 1945 c. 21 (N.I.)
(b) 1946 c. 11 (N.I.); S.R. & O. (N.I.) 1964 No. 205 (p. 937) and S.R. & O. (N.I.) 1973 No. 504 art. 6(1) and Sch. 3 (II, p. 2992)

SCHEDULE

Holidays and Holiday Remuneration

This Schedule sets out the holidays and holiday remuneration payable in substitution for the holidays and holiday remuneration fixed by the Baking Wages Regulation (Holidays) Order (Northern Ireland) 1970(c) (Order N.I.Bk. (345)) as amended by the Baking Wages Regulation (Amendment) Order (Northern Ireland) 1975(d) (Order N.I.Bk. (357)).

PART I

APPLICATION

Paragraph 1.

This Schedule applies to every worker for whom statutory minimum remuneration has been fixed.

PART II

CUSTOMARY HOLIDAYS

Paragraph 2.

(1) An employer shall allow to every worker 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 four weeks immediately preceding the customary holiday and has worked for the employer for 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) in the case of a worker employed in the County Borough of the City of Belfast or in districts situate within a radius of 15 statute miles therefrom—

Christmas Day, Easter Monday, *May Day*, 12th July (herein referred to as "named days") and one other day in addition to each of those named days *except May Day*:

Provided that—

(i) where a named day falls on a Saturday, Sunday, or Monday, the additional day of customary holiday shall be allowed by the employer to the worker within the period of four weeks next ensuing on a weekday to be agreed between the employer and the worker or his representative;

(ii) where Christmas Day or 12th July falls on a Tuesday, Wednesday, Thursday, or Friday, the additional day of customary holiday shall be allowed by the employer to the worker either on the day immediately preceding or on the day immediately following that day, according to production and distribution requirements;

(iii) where a named day falls on a worker's rest day the employer shall allow the customary holiday to the worker either on the weekday immediately preceding or on the weekday immediately following that day according to production and distribution requirements and the additional day shall be allowed in accordance with the provisions specified in (i).

(b) in the case of a worker employed in an area other than that specified in (a)—

the provisions set out in (a) shall apply subject to the substitution for "12th July," wherever it occurs, of the words "August Bank Holiday or a day substituted therefor, being a day recognised by local custom, or by custom in the establishment, as a day of customary holiday."

(c) S.R. & O. (N.I.) 1970 No. 92 (p. 439) (d) S.R. 1975 No. 11 (I, p. 39)

(3) Notwithstanding the foregoing provisions of this paragraph an employer may (except where, in the case of a woman or a 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 (hereafter referred to as a "holiday in lieu") on a day of the week on which he normally works within the period of four weeks next ensuing.

Provided that in the case of a worker who is so required to work on a customary holiday—

(i) if, in respect of such work, the worker is paid by the employer the statutory minimum remuneration appropriate to work on a customary holiday a holiday in lieu need not be allowed by the employer to that worker;

(ii) if, in respect of such work on a customary holiday other than on a named day (as defined in (2)(a)), the worker is paid by the employer the statutory minimum remuneration appropriate to work on a weekday other than a customary holiday, a holiday in lieu shall be allowed to that worker and the worker shall be paid, in respect of that holiday in lieu, holiday remuneration in accordance with the provisions of paragraph 7.

Paragraph 3.

An employer shall give to a worker reasonable notice of the days on which the customary holidays will be allowed to him, such notice may be given individually to the worker or by the posting of a notice in the place where he is employed.

PART III

ANNUAL HOLIDAYS AND FURTHER ANNUAL HOLIDAYS

Paragraph 4.

(1) In addition to the customary holidays specified in Part II an employer shall, between 1st April and 31st October 1970, and in each succeeding year between 1st April and 31st October (hereafter referred to as the "holiday season") allow a holiday to every worker in his employment to whom this Schedule applies who was employed by him during the 12 months immediately preceding the commencement of the holiday season for any of the periods specified below, and the duration of the holiday shall be related to his period of employment during that 12 months as follows:—

Period of employment	Duration of annual holiday
At least 48 weeks	10 days
„ 43 „	9 „
„ 38 „	8 „
„ 33 „	7 „
„ 28 „	6 „
„ 24 „	5 „
„ 19 „	4 „
„ 14 „	3 „
„ 9 „	2 „
„ 4 „	1 day

(2) In addition to the annual holidays specified in sub-paragraph (1) an employer shall, during the month of October in each year or during the months of November, January, February and March following each holiday season, allow a further annual holiday to every worker in his employment to whom this Schedule applies who was employed by him during the 12 months immediately preceding the commencement of the holiday season for any of the periods specified below and the duration of the holiday shall be related to his period of employment during that 12 months as follows:—

Period of employment	Duration of further annual holiday
At least 48 weeks	5 days
„ 38 „	4 „
„ 28 „	3 „
„ 19 „	2 „
„ 9 „	1 day

(3) Notwithstanding the provisions of sub-paragraphs (1) and (2) the number of days of annual holiday to which a worker is entitled in any period of 12 months commencing on 1st April in any year shall not exceed in the aggregate three times the period constituting the worker's normal working week.

Paragraph 5.

Annual holidays and further annual holidays shall each be allowed on consecutive working days, being days on which the worker is normally required to work, and days of holiday shall be treated as consecutive notwithstanding that a customary holiday or a holiday in lieu intervenes.

Paragraph 6.

An employer shall give to the worker reasonable notice of the commencing dates and duration of his annual holiday and of his further annual holiday. Such notice may be given individually to the worker or by the posting of a notice in the place where he is employed.

Part IV

HOLIDAY REMUNERATION

CUSTOMARY HOLIDAYS

Paragraph 7.

(1) For each day of customary holiday to which a worker is entitled under the provisions of Part II he shall be paid by the employer one day's holiday pay (as defined in paragraph 13).

Provided that payment of the aforesaid holiday remuneration shall be subject to the conditions that (a) the worker has worked the last working day on which work was available to him preceding the holiday and (b) the first working day following the holiday or, if in either case he fails to do so, failure is by reason of the proved illness of the worker or with the consent of his employer.

(2) Holiday remuneration in respect of a 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) Holiday remuneration in respect of a holiday in lieu shall be paid on the pay day on which the wages for the pay week including that holiday in lieu are paid.

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 such holiday in lieu, and in that case condition (b) in sub-paragraph (1) shall not apply.

ANNUAL HOLIDAYS

Paragraph 8.

Subject to the provisions of paragraph 9—

(1) a worker entitled to be allowed an annual holiday under the provisions of paragraph 4(1) shall be paid by his employer, on the last pay day preceding such annual holiday, one day's holiday pay (as defined in paragraph 13) in respect of each day thereof.

(2) (a) a worker entitled to be allowed a further annual holiday of 5 days under the provisions of paragraph 4(2) shall be paid by his employer, on the last pay day preceding such further annual holiday, one day's holiday pay (as defined in paragraph 13) in respect of each day thereof.

(b) a worker entitled to be allowed a further annual holiday of less than 5 days under the provisions of paragraph 4(2) shall be paid by his employer, on the pay day on which the wages for the pay week including the further annual holiday are paid, one day's holiday pay (as defined in paragraph 13) in respect of each day thereof.

Paragraph 9.

Where accrued holiday remuneration has been paid by the employer to the worker (in accordance with paragraph 10(1) or in accordance with the provisions of Order N.I.Bk. (335)) 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 any of the said periods 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.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

Paragraph 10.

(1) If a worker ceases to be employed before being allowed or entitled to be allowed an annual holiday the employer shall, immediately on the termination of the employment (hereafter called "the termination date"), pay to the worker as accrued holiday remuneration:—

(a) in respect of any period of employment occurring before the 1st April immediately preceding the termination date, an amount equal to the holiday remuneration to which the worker would have been entitled under the provisions of paragraph 8(1) if he had been allowed an annual holiday in respect of that period of employment at the termination date, LESS any holiday remuneration already paid for any day or days of annual holiday allowed subsequently to the 1st April aforesaid in respect of that period of employment and,

(b) in respect of any period of employment since the 1st April immediately preceding the termination date, an amount equal to one day's holiday pay (as defined in paragraph 13) multiplied by the number of days of annual holiday to which the worker would have been entitled under the provisions of paragraph 4(1) if by virtue of such period of employment he could have taken an annual holiday at the termination date, LESS any accrued holiday remuneration already paid by the employer to the worker in respect of that period.

(c) if a worker ceases to be employed in any period of 12 months commencing on 1st April in any year before being allowed the further annual holiday for which he has qualified under the provisions of paragraph 4(2) the employer shall, on the termination date, pay to the worker one day's holiday pay (as defined in paragraph 13) for each day of such further annual holiday for which he has so qualified.

PART V

GENERAL

Paragraph 11.

For the purpose of calculating any period of employment entitling a worker to an annual holiday or further annual holiday or to any accrued holiday remuneration 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 16 hours and has performed some work to which statutory minimum remuneration applies; or

(ii) he has been absent throughout the week by reason of proved illness or accident (provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed 12 in the aggregate in each period of 12 months immediately preceding the commencement of the holiday season); or

(iii) 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 12 in the aggregate in each period of 12 months last mentioned); or

(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 subparagraph (a) 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 for the employer on work to which statutory minimum remuneration applies.

Paragraph 12.

Where a day of annual holiday allowed to a worker falls upon a day of holiday or half holiday to which the worker may be entitled under any enactment other than the Wages Councils Act (Northern Ireland) 1945, that holiday or half holiday shall be treated as part of the holiday allowed under this Schedule.

Paragraph 13.

In this Schedule 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 while in the employment of the employer during the 12 months immediately preceding the commencement of the holiday season or where, under paragraph 10, accrued holiday remuneration is payable on the termination of the employment, during the 12 months immediately preceding the termination date:

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.

"ONE DAY'S HOLIDAY PAY" means the appropriate proportion of the worker's weekly remuneration, that is to say,

where the worker's normal working week is five days—one-fifth;

where the worker's normal working week is four days—one-quarter;

where the worker's normal working week is three days—one-third;

where the worker's normal working week is two days—one-half;

where the worker's normal working week is one day—the whole,

increased in each case by 12½ per cent. plus the appropriate holiday Bonus as set out in Column 8 of the First Schedule above, and in this definition, "weekly remuneration" means the remuneration (exclusive of bonus payments) which the worker would be entitled to receive from the employer at the date of the holiday or, where accrued holiday remuneration is payable, at the termination date, for one week's work—

(a) if working his normal working week and the daily number of hours normally worked by him excluding overtime; and

(b) 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.

"STATUTORY MINIMUM REMUNERATION" means minimum remuneration (other than holiday remuneration) fixed by a Wages Regulation Order made by the Department to give effect to proposals submitted to it by the Baking Wages Council (Northern Ireland).

"WEEK" means "pay week."

EXPLANATORY NOTE

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

This Order which comes into operation on 14th March 1978 sets out the holidays and holiday remuneration in substitution for the holidays and holiday remuneration fixed by the Baking Wages Regulation (Holidays) Order (Northern Ireland) 1970 (Order N.I.Bk. 345)) as amended by the Baking Wages Regulation (Amendment) Order (Northern Ireland) 1975 (Order N.I.Bk. (357)).

Order N.I.Bk. (345) is revoked.

New provisions in the Schedule are printed in italics.