1965. No. 90 **[NC]**

WAGES COUNCILS

Wages Regulation (Baking)

ORDER, DATED 3RD MAY, 1965, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE WAGES COUNCILS ACT (NORTHERN IRELAND) 1945.

The Ministry of Health and Social Services, in exercise of the powers conferred on it by Section 10 of the Wages Councils Act (Northern Ireland) 1945(a), 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) 1965.

Commencement

2. The wages regulation proposals set out in the Schedule shall come into operation on the specified date and on the day immediately preceding that date the Baking Wages Council (Northern Ireland) Wages Regulation (Holidays) Order 1955(b) shall cease to have effect.

Interpretation

3. In this Order the expression "the specified date" means the 11th day of May, 1965, 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 Ministry of Health and Social Services for Northern Ireland this 3rd day of May, 1965.

(L.S.) *W. Slinger,*
Assistant Secretary.

(a) 1945. c. 21. (b) S.R. & O. (N.I.) 1955, No. 133.

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 Baking Wages Council (Northern Ireland) Wages Regulation (Holidays) Order 1955 (Order N.I.Bk. (194)):—

Holidays and Holiday Remuneration

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 (hereafter 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 is in his employment on the day of the holiday.

(2) The said customary holidays are:—

(a) in the case of a worker employed in the County Borough of the City of Belfast and in districts situate within a radius of 15 statute miles therefrom—

Christmas Day, Easter Monday, 12th July, and one other day (being a day of the week on which the worker normally works) immediately preceding or immediately following each of the aforesaid days, being a day which is, by custom in the establishment, recognised as a day of holiday in addition to each of the said days;

(b) in the case of a worker employed in the County Borough of the City of Londonderry—

Christmas Day, Easter Monday, August Bank Holiday, and one other day (being a day of the week on which the worker normally works) immediately preceding or immediately following each of the aforesaid days, being a day which is, by custom in the establishment, recognised as a day of holiday in addition to each of the said days;

(c) in the case of a worker employed in all areas other than those specified in sub-paragraphs (2) (a) and (2) (b)—

Christmas Day, Easter Monday, August Bank Holiday, and one other day (being a day of the week on which the worker normally works) immediately preceding or immediately following each of the aforesaid days, being a day which is, by custom in the establishment, recognised as a day of holiday in addition to each of the said days.

Provided that, in the case of August Bank Holiday and the day immediately preceding or the day immediately following that day, as the case may be, two other days (being days of the week on which the worker normally works) may be substituted therefor, being days recognised by local custom, or by custom in the establishment, as days of holiday.

Provided that—

(i) where Christmas Day or 12th July falls on a day of the week on which the worker does not normally work, the customary holiday shall be allowed by the employer to the worker on the working day immediately preceding or immediately following that day,

(ii) in the case of a night worker, irrespective of the area in which he is employed, the day immediately preceding or the day immediately following each of the days Christmas Day, Easter Monday, 12th July and August Bank Holiday (or the day substituted for any of those days under the provisions of this sub-paragraph) shall be deemed to include the spell of duty prior to or next following that which would ordinarily end on Christmas Day, Easter Monday, 12th July, or August Bank Holiday (or the day substituted for any of these days as aforesaid) as the case may be, had each of those days been a day on which the worker would normally have worked.

(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 week-day 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 Christmas Day, Easter Monday, 12th July, or August Bank Holiday (or the day substituted therefor), the worker is paid by the employer the statutory minimum remuneration appropriate to work on a week-day other than a customary holiday, a holiday in lieu shall be allowed to that worker in accordance with the provisions of this sub-paragraph and the worker shall be paid, in respect of that holiday in lieu holiday remuneration in accordance with the provisions of paragraph 6.

PART III

ANNUAL HOLIDAYS

Paragraph 3.

(i) In addition to the holidays specified in Part II an employer shall between *the date on which the provisions of this Schedule become operative and 30th November, 1965,* and in each succeeding year between 1st March and 30th November (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:—

Col. 1		Col. 2	
Where the worker's normal working week is one of 6 days		Where the worker's normal working week is one of 5 days or less	
Period of employment	Duration of annual holiday	Period of employment	Duration of annual holiday
At least 48 weeks ..	12 days	At least 48 weeks ..	10 days
„ 44 „ ..	11 „	„ 43 „ ..	9 „
„ 40 „ ..	10 „	„ 38 „ ..	8 „
„ 36 „ ..	9 „	„ 33 „ ..	7 „
„ 32 „ ..	8 „	„ 28 „ ..	6 „
„ 28 „ ..	7 „	„ 24 „ ..	5 „
„ 24 „ ..	6 „	„ 19 „ ..	4 „
„ 20 „ ..	5 „	„ 14 „ ..	3 „
„ 16 „ ..	4 „	„ 9 „ ..	2 „
„ 12 „ ..	3 „	„ 4 „ ..	1 day
„ 8 „ ..	2 „		
„ 4 „ ..	1 day		

(2) Notwithstanding the provisions of sub-paragraph (1)—

(a) *Subject to the provisions of* (*b*) the number of days of annual holiday to which a worker is entitled in any holiday season shall not exceed in the aggregate twice the period constituting the worker's normal working week.

(*b*) *notwithstanding the provisions of* (*a*) *a worker will on completion of 10 years' continuous employment with the same employer be entitled to 3 days of annual holiday and after the completion of 25 years' continuous employment with the same employer to 6 days of annual holiday in addition to the annual holidays to which he is otherwise entitled.*

(*c*) *the duration of a worker's annual holiday during the holiday season ending on 30th November, 1965, shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order N.I.Bk.* (*194*) *between 1st March, 1965 and the date on which the provisions of this Schedule become operative.*

Paragraph 4.

Annual holidays shall 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 5.

An employer shall give to a worker reasonable notice of the commencing date and duration of his annual holiday. Such notice 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

Paragraph 6.

(1) For each day of customary holiday (including a customary holiday falling on a Saturday or a Sunday) to which a worker is entitled under the provisions of Part II he shall be paid by the employer holiday remuneration equal to the appropriate statutory minimum remuneration which he would have been entitled to receive from his employer if the day had not been a holiday and he had worked for the employer on work to which statutory minimum remuneration applies for the normal number of hours ordinarily worked by him on such work on that day of the week excluding overtime but including time worked on a Sunday in the case of a worker whose normal working week includes employment on Sunday and including also time worked before 6 a.m. in the case of a worker whose normal working week includes employment before that hour.

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) presents himself for employment at his usual starting hour on 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 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.

B—ANNUAL HOLIDAYS

Paragraph 7.

Subject to the provisions of paragraph 8, a worker entitled to be allowed an annual holiday under Part III shall be paid by his employer, on the last pay day preceding such annual holiday, one day's holiday pay (as defined in paragraph 12) in respect of each day thereof.

Paragraph 8.

Where accrued holiday remuneration has been paid by the employer to the worker (in accordance with paragraph 9 *or in accordance with the provisions of Order N.I.Bk. (194)*) 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 9.

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:—

(1) in respect of any period of employment occurring before the 1st day of March 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 7 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 day of March aforesaid in respect of that period of employment and,

(2) in respect of any period of employment since the 1st day of March immediately preceding the termination date, an amount equal to one day's holiday pay (as defined in paragraph 12) multiplied by the number of days of annual holiday to which the worker would have been entitled under the provisions of paragraph 3 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.

PART V

GENERAL

Paragraph 10.

For the purpose of calculating any period of employment entitling a worker to an annual holiday or to any accrued holiday remuneration *and for the purpose of calculating the period of the continuous employment specified in paragraph 3(2)(b)* 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 sub-paragraph (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 11.

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 12.

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 9, 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 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	.. 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,

and in this definition, "weekly remuneration" means the remuneration 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 but including time worked on a Sunday in the case of a worker whose normal working week includes employment on Sunday and including also time worked before 6 a.m. in the case of a worker whose normal working week includes employment before that hour; 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 Ministry to give effect to proposals submitted to it by the Baking Wages Council (Northern Ireland).

"WEEK" means "pay week."

Paragraph 13.

The provisions of this Schedule are without prejudice to agreements made or that may be made, for payment of higher rates of holiday remuneration or for the allowance of holidays in addition to those herein provided.

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 11th May, 1965, 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 Baking Wages Council (Northern Ireland) Wages Regulation (Holidays) Order 1955, which is revoked.

New provisions in the Schedule are printed in italics.