The Hat, Cap and Millinery Wages Council (Scotland) Wages Regulation (Holidays) Order, 1949

1949 No. 1645

Made - - - - 1*st September*, 1949
Coming into Operation 16*th September*, 1949

Whereas the Minister of Labour and National Service (hereinafter in this Order referred to as "the Minister") has received from the Hat, Cap and Millinery Wages Council (Scotland) (hereinafter in this Order referred to as "the Council") the wages regulation proposals set out in the Schedule hereto being proposals for requiring workers in relation to whom the Council operates to be allowed holidays by their employers and for fixing holiday remuneration to be paid by their employers to those workers in substitution for the holidays provided for, and the holiday remuneration fixed, by the Hat, Cap and Millinery Wages Council (Scotland) Wages Regulation (Holidays) Order, 1946(**a**) (hereinafter in this Order referred to as "Order H.M.S. (28)");

Now, therefore, the Minister by virtue of the powers conferred on him by section 10 of the Wages Councils Act, 1945(**b**), and of all other powers in that behalf, hereby makes the following Order:—

Short title and interpretation

1.—(1) This Order may be cited as the Hat, Cap and Millinery Wages Council (Scotland) Wages Regulation (Holidays) Order, 1949.

(2) In this Order the expression "the specified date" means the 16th day of September, 1949, 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.

(3) The Interpretation Act, 1889(**c**), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Fixing of holidays and holiday remuneration and revocation of Order H.M.S. (28)

2.—(1) Effect is hereby given to the said wages regulation proposals set out in the Schedule hereto.

(2) The provisions of the Schedule hereto shall have effect as from the specified date and as from that date Order H.M.S. (28)(**a**) shall cease to have effect.

Signed by order of the Minister of Labour and National Service this 1st day of September, 1949.

Godfrey H. Ince,
Secretary of the
Ministry of Labour and National Service.

(**a**) S.R. & O. 1946 No. 1110. (**b**) 8 & 9 Geo. 6. c. 17. (**c**) 52 & 53 Vict. c. 63.

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 Order H.M.S. (28).

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 in his employment to whom this Schedule applies a holiday (hereinafter in this Schedule 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 11 of this Schedule) 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*) Three other days to be agreed between the employer and worker.

PART III

ANNUAL HOLIDAYS

Paragraph 3

(1) In addition to the holidays specified in Part II of this Schedule an employer shall before the *31st day of October, 1949* and between the *1st day of May* and the *30th day of September* in each subsequent year, allow a holiday (hereinafter 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 11 of this Schedule) set out in the appropriate column of the table 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*
Not less than 48 weeks	*12 days*	*Not less than 48 weeks ... ...*	*10 days*
" " *44* " *but less than 48 weeks ...*	*11* "	" " *43* " *but less than 48 weeks ...*	*9* "
" " *40* " " " *44* " ...	*10* "	" " *38* " " " *43* " ...	*8* "
" " *36* " " " *40* " ...	*9* "	" " *33* " " " *38* " ...	*7* "
" " *32* " " " *36* " ...	*8* "	" " *28* " " " *33* " ...	*6* "
" " *28* " " " *32* " ...	*7* "	" " *24* " " " *28* " ...	*5* "
" " *24* " " " *28* " ...	*6* "	" " *19* " " " *24* " ...	*4* "
" " *20* " " " *24* " ...	*5* "	" " *14* " " " *19* " ...	*3* "
" " *16* " " " *20* " ...	*4* "	" " *9* " " " *14* " ...	*2* "
" " *12* " " " *16* " ...	*3* "	" " *4* " " " *9* " ...	*1 day*
" " *8* " " " *12* " ...	*2* "		
" " *4* " " " *8* " ...	*1 day*		

(2) Notwithstanding the provisions of the last foregoing sub-paragraph—

(*a*) *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*) the duration of the worker's annual holiday during the holiday season ending on the *31st day of October, 1949*, shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order H.M.S. (28) between the *1st day of May, 1949*, and the *16th day of September, 1949;*

(*c*) *where in any year a worker does not wish to take his annual holiday or part thereof during the current holiday season and, before the expiration of such holiday season, enters into an agreement in writing with his employer that the annual holiday or part thereof shall be allowed after the expiration of the current holiday season but before the commencement of the next following holiday season, then any day or days of annual holiday so allowed shall be treated as having been allowed during the current holiday season.*

(3) In this Schedule the expression "holiday season" means in relation to the year 1949 the period commencing on the *1st day of May, 1949*, and ending on the *31st day of October, 1949*, and in relation to each subsequent year, the period commencing on the *1st day of May* and ending on the *30th day of September* in that year.

Paragraph 4

Annual holidays under this Schedule shall be allowed on consecutive working days and days of holiday shall be treated as consecutive notwithstanding that a Sunday or a customary holiday intervenes.

Provided that—

(*1*) *where the duration of an annual holiday to which a worker is entitled exceeds the period constituting the worker's normal working week the said holiday may be allowed in two separate periods of such consecutive working days one of which shall be not less than the period of his normal working week;*

(*2*) *one day of the annual holiday may be allowed on a non-consecutive working day (other than the worker's weekly short day) falling within the holiday season (or after the holiday season in the circumstances specified in sub-paragraph (2) (c) of paragraph 3 of this Schedule) where the said annual holiday or, as the case may be, such separate period, is allowed immediately after a customary holiday or so that such a holiday intervenes.*

Paragraph 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

Paragraph 6

(1) In respect of each day which he is entitled to be allowed as a customary holiday under paragraph 2 of this Schedule, a worker shall be paid by his employer (not later than the following pay day) holiday remuneration equal to one-sixth, one-fifth, one-fourth or one-third of the amount specified in the next following sub-paragraph according as the number of days in the worker's normal working week is six, five, four or three respectively.

(2) The amount referred to in the preceding sub-paragraph is 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 minimum rate that would have been applicable to him if he had been employed as a time worker.

B—ANNUAL HOLIDAYS

Paragraph 7

(1) Subject to the provisions of paragraph 10 of this Schedule, a worker entitled 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, remuneration in accordance with the following table:—

TABLE OF HOLIDAY REMUNERATION

Column 1	*Column 2*			Column 3
Period of annual Holiday	*Holiday remuneration for workers with a normal working week of:—*			Holiday remuneration for full normal working week
	Six days	*Five days*	*Four days or less*	
12 days ...	*Twice the amount in Col. 3*	—	—	The amount which the worker would be entitled to receive from his employer, at the date of the annual 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.
11 ,, ...	*One and five-sixths times the amount in Col. 3*	—	—	
10 ,, ...	*One and two-thirds times the amount in Col. 3*	*Twice the amount in Col. 3*	—	
9 ,, ...	*One and one-half times the amount in Col. 3*	*One and four-fifths times the amount in Col. 3*	—	
8 ,, ...	*One and one-third times the amount in Col. 3*	*One and three-fifths times the amount in Col. 3*	*Twice the amount in Col. 3*	
7 ,, ...	*One and one-sixth times the amount in Col. 3*	*One and two-fifths times the amount in Col. 3*	*One and three-quarters times the amount in Col. 3*	
6 ,, ...	*The amount in Col. 3*	*One and one-fifth times the amount in Col. 3*	*One and one-half times the amount in Col. 3*	
5 ,, ...	*Five-sixths of the amount in Col. 3*	*The amount in Col. 3*	*One and one-quarter times the amount in Col. 3*	
4 ,, ...	*Two-thirds of the amount in Col. 3*	*Four-fifths of the amount in Col. 3*	*The amount in Col. 3*	
3 ,, ...	*One-half of the amount in Col. 3*	*Three-fifths of the amount in Col. 3*	*Three-quarters of the amount in Col. 3*	
2 ,, ...	*One-third of the amount in Col. 3*	*Two-fifths of the amount in Col. 3*	*One-half of the amount in Col. 3*	
1 day ...	*One-sixth of the amount in Col. 3*	*One-fifth of the amount in Col. 3*	*One-quarter of the amount in Col. 3*	

(2) In the application of the provisions of the foregoing table to the case of a piece worker the appropriate rate of statutory minimum remuneration for time work is the appropriate minimum rate that would have been applicable to him if he had been employed as a time worker.

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

Paragraph 8

When a worker ceases to be employed after the provisions of this Schedule become effective, accrued holiday remuneration shall, immediately on the termination of the employment, be paid to him by his employer in accordance with the next following paragraph for periods of employment in respect of which he has not been allowed or has not become entitled to be allowed an annual holiday under this Schedule. *Provided that where a worker ceases to be employed after being allowed (whether before or after the date on which the provisions of this Schedule become effective) a part of the annual holiday for which he has qualified by reason of his employment during any of the periods of twelve months referred to in the next following paragraph, but before being allowed the rest of the annual holiday for which he has so qualified, the accrued holiday remuneration payable to him in respect of his employment during the said period of twelve months shall be reduced by the amount of holiday remuneration received by him in respect of the part of the annual holiday he has been allowed.*

Paragraph 9

(1) Subject to the provisions of this paragraph, holiday remuneration shall accrue to a worker during the period of twelve months commencing on the *1st day of May, 1948,* and thereafter in each successive period of twelve months commencing on the *1st day of May* and such holiday remuneration shall accrue in accordance with the provisions of the following table:—

TABLE OF ACCRUED HOLIDAY REMUNERATION

Column 1 *Workers with a normal working week of 6 days*		*Column 2* *Workers with a normal working week of 5 days or less*		Column 3 Accrued holiday remuneration for full normal working week
Period of employment	*Accrued holiday remuneration*	*Period of employment*	*Accrued holiday remuneration*	
After 48 weeks' employment calculated in accordance with the provisions of paragraph 11 of this Schedule	*Twice the amount in Col. 3*	*After 48 weeks' employment calculated in accordance with the provisions of paragraph 11 of this Schedule*	*Twice the amount in Col. 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 at the appropriate rate of statutory minimum remuneration for time work.
After 44 weeks' such employment	*One and five-sixths times the amount in Col. 3*	*After 43 weeks' such employment*	*One and four-fifths times the amount in Col. 3*	
After 40 weeks' such employment	*One and two-thirds times the amount in Col. 3*	*After 38 weeks' such employment*	*One and three-fifths times the amount in Col. 3*	
After 36 weeks' such employment	*One and one-half times the amount in Col. 3*	*After 33 weeks' such employment*	*One and two-fifths times the amount in Col. 3*	
After 32 weeks' such employment	*One and one-third times the amount in Col. 3*	*After 28 weeks' such employment*	*One and one-fifth times the amount in Col. 3*	
After 28 weeks' such employment	*One and one-sixth times the amount in Col. 3*	*After 24 weeks' such employment*	*The amount in Col. 3*	
After 24 weeks' such employment	*The amount in Col. 3*	*After 19 weeks' such employment*	*Four-fifths of the amount in Col. 3*	
After 20 weeks' such employment	*Five-sixths of the amount in Col. 3*	*After 14 weeks' such employment*	*Three-fifths of the amount in Col. 3*	
After 16 weeks' such employment	*Two-thirds of the amount in Col. 3*	*After 9 weeks' such employment*	*Two-fifths of the amount in Col. 3*	
After 12 weeks' such employment	*One-half of the amount in Col. 3*	*After 4 weeks' such employment*	*One-fifth of the amount in Col. 3*	
After 8 weeks' such employment	*One-third of the amount in Col. 3*	—	—	
After 4 weeks' such employment	*One-sixth of the amount in Col. 3*	—	—	

(2) In the application of the provisions of the foregoing table to the case of a piece worker the appropriate rate of statutory minimum remuneration for time work is the appropriate minimum rate that would have been applicable to him if he had been employed as a time worker.

(3) The amount of any accrued holiday remuneration payable on the termination of the worker's employment in respect of any of the periods of twelve months mentioned in sub-paragraph (1) of this paragraph shall be reduced by the amount of any previous payment of accrued holiday remuneration made by the employer to the worker in respect of the period for which the accrued holiday remuneration is payable.

Paragraph 10

Where any accrued holiday remuneration has been paid by the employer to the worker in respect of employment during any of the periods of twelve months referred to in sub-paragraph (1) of 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 of twelve months shall be reduced by the amount of the accrued holiday remuneration so paid *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 H.M.S. (28).*

PART V

GENERAL

Paragraph 11

For the purposes of calculating any period of employment entitling a worker to any holiday or to 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 for not less than sixteen 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 sixteen in any such period as aforesaid); 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 sixteen in any such period as aforesaid); and

(*b*) as if he were employed on any day of holiday allowed under the provisions of this Schedule and for the purposes 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 for the number of hours ordinarily worked by him on that day of the week.

Paragraph 12

Where any day of holiday allowed to any worker under this Schedule 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, 1945, that holiday or half holiday shall be treated as part of the holiday allowed under this Schedule.

Paragraph 13

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 twelve 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 paragraphs 8 and 9 of this Schedule accrued holiday remuneration is payable on the termination of the employment, in the twelve months immediately preceding the date of the termination of the employment.

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.

"STATUTORY MINIMUM REMUNERATION" means minimum remuneration (other than holiday remuneration) fixed by a wages regulation order made by the Minister to give effect to proposals submitted to him by the Council.

"WEEK" means "pay week."

Paragraph 14

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.)

The Schedule to this Order, which has effect from the 16th September, 1949, sets out the annual holidays and certain other days of holiday (referred to as "customary holidays") which an employer is required to allow to workers in relation to whom the Hat, Cap and Millinery Wages Council (Scotland) operates and the holiday remuneration payable to such workers. It supersedes the Schedule to Order H.M.S. (28).

New provisions are printed in italics.