1961. No. 89 **[NC]**

WAGES COUNCILS

Wages Regulation (Hat, Cap and Millinery)

ORDER, DATED 6TH APRIL, 1961, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE UNDER THE WAGES COUNCILS ACT (NORTHERN IRELAND), 1945.

The Ministry of Labour and National Insurance, 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 Hat, Cap and Millinery Wages Council (Northern Ireland):—

Citation

1. This Order may be cited as the Hat, Cap and Millinery Wages Regulation (Holidays) Order (Northern Ireland), 1961.

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 Hat, Cap and Millinery Wages Council (Northern Ireland) Wages Regulation (Holidays) Order, 1950(**b**), shall cease to have effect.

Interpretation

3. In this Order the expression "the specified date" means the 17th day of April, 1961, 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 Labour and National Insurance for Northern Ireland this sixth day of April, nineteen hundred and sixty-one.

(L.S.)

W. Slinger,
Assistant Secretary.

(**a**) 1945. c. 21.

(**b**) S.R. & O. (N.I.) 1950, No. 85.

SCHEDULE

Holidays and Holiday Remuneration

PART I

APPLICATION

Paragraph 1.

(1) This Schedule applies to every worker (other than an out-worker) for whom statutory minimum remuneration has been fixed.

(2) An "out-worker" is a worker who works in his own home or in any other place not under the control or management of the employer.

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 eight weeks immediately preceding the customary 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 customary holiday.

(2) The said customary holidays are:—

(a) Christmas Day (or, if Christmas Day falls on a Sunday, such other weekday as may be appointed by national proclamation, or, if none is so appointed, the next following Tuesday), Boxing Day, Easter Monday, Easter Tuesday, and two 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) a day substituted by the employer for any one of the said days, 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 a young person such a requirement would be unlawful) require a worker who is otherwise entitled to any customary holiday under the foregoing provisions 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 (hereinafter referred to as a "holiday in lieu of a customary holiday") on a weekday within the period of four weeks next ensuing.

(4) A worker who is required to work on a customary holiday shall be paid:—

(a) for all time worked thereon at the minimum rate then appropriate to the worker for work on a customary holiday; and

(b) in respect of the holiday in lieu of the customary holiday, in accordance with paragraph 6.

PART III

ANNUAL HOLIDAYS

Paragraph 3.

(1) In addition to the customary holidays specified in Part II, an employer shall, between *the date on which this Order becomes operative and 30th September, 1961*, and in each succeeding year between *6th April* and 30th September (hereinafter referred to as "the holiday season") allow a holiday (hereinafter referred to as an "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 one of the periods of employment specified below, and the duration of the annual holiday shall be related to the period of employment during those 12 months as follows:—

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) 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.

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

Provided that, where the duration of an annual holiday for which a worker has qualified exceeds the period constituting the worker's normal working week, the said annual holiday may be allowed in two separate periods of such consecutive working days if one of such periods is not less than the number of days constituting the worker's normal working week.

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) For each day of customary holiday (including a customary holiday falling on a Saturday to which a worker is entitled he 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 who normally works for the employer on six days in the week: two-elevenths,*

(ii) *in the case of a worker who normally works for the employer on five days in the week: one-fifth,*

of the average weekly earnings of the worker during the twelve months ended on 5th April immediately preceding the customary holiday, such average weekly earnings to be determined by dividing the total remuneration (including holiday remuneration) paid to him by the employer during the said period by the number of weeks of employment with the employer during that period,

or (b) the appropriate statutory minimum remuneration to which he would have been entitled as a time worker if the day had not been a day of customary holiday and he had worked 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.

(2) *Notwithstanding the provisions of sub-paragraph (1) payment of the said holiday remuneration is subject to the condition that the worker presents himself for employment at the usual starting hour on the working day immediately preceding the customary holiday and on the first working day following the customary holiday or, if he fails to do so, such failure is by reason of the proved illness of the worker or with the consent of the employer.*

(3) Where a worker normally works in the week on every weekday except Saturday, he shall be paid a sum equivalent to the holiday remuneration in respect of any Saturday in respect of which he would have been entitled to a customary holiday under Part II if it had been a day on which he normally worked.

(4) 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.

(5) 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 which includes 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 the conditions specified in sub-paragraph (2) shall not apply.

B—Annual Holidays

Paragraph 7.

(1) Subject to the provisions of paragraph 8, a worker qualified to be allowed an annual holiday shall be paid by his employer in respect thereof, on the last pay day preceding such annual holiday as holiday remuneration *whichever of the following amounts is the greater:*

(a) an amount equal to two fifty-seconds of the total remuneration (including holiday remuneration) paid by the employer to the worker during the twelve months ended on 5th April immediately preceding the annual holiday;

or (b) holiday remuneration in accordance with the following table:—

TABLE OF HOLIDAY REMUNERATION

Col. 1	Col. 2				Col. 3
Period of annual holiday	Holiday remuneration for workers with a normal working week of				Holiday remuneraton for full normal working week
	6 days	5 days	4 days	3 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 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 as a time worker at the appropriate statutory minimum remuneration for time work fixed by a wages regulation order in respect of the worker for work to which that order applies and at the same rate for work (if any) to which that order does not apply.
11 days	One and five-sixths times the amount in Col. 3	—	—	—	
10 days	One and two-thirds times the amount in Col. 3	Twice the amount in Col. 3	—	—	
9 days	One and one-half times the amount in Col. 3	One and four-fifths times the amount in Col. 3	—	—	
8 days	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 days	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 days	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	Twice the amount in Col. 3	
5 days	Five-sixths of the amount in Col. 3	The amount in Col. 3	One and one-quarter times the amount in Col. 3	One and two-thirds times the amount in Col. 3	
4 days	Two-thirds of the amount in Col. 3	Four-fifths of the amount in Col. 3	The amount in Col. 3	One and one-third times the amount in Col. 3	
3 days	One-half of the amount in Col. 3	Three-fifths of the amount in Col. 3	Three-quarters of the amount in Col. 3	The amount in Col. 3	
2 days	One-third of the amount in Col. 3	Two-fifths of the amount in Col. 3	One-half of the amount in Col. 3	Two-thirds 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	One-third of the amount in Col. 3	

(2) Where under the provisions of paragraph 4 an annual holiday is allowed in two separate periods, the holiday remuneration shall be apportioned accordingly.

Paragraph 8.

Where, in accordance with paragraph 9 or under the provisions of N.I.H.M. (20), any accrued holiday remuneration has been paid by the employer to the worker 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 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.

(1) If a worker ceases to be employed by an employer before being allowed or entitled to be allowed an annual holiday, the employer shall immediately on the termination of the employment pay to the worker accrued holiday remuneration in accordance with the provisions of the next following sub-paragraph.

Provided that where a worker ceases to be employed after being allowed 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.

(2) Holiday remuneration shall accrue to a worker during the period of twelve months commencing on *6th April, 1960,* and thereafter in each successive period of twelve months commencing on *6th April* and such holiday remuneration shall accrue in accordance with the provisions of the following table:—

Table of Accrued Holiday Remuneration

(a) Where the worker's normal working week is one of six days—

Col. 1	Col. 2	Col. 3
Period of employment	Accrued holiday remuneration	Accrued holiday remuneration for full normal working week
At least 48 weeks	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 as a time worker at the appropriate statutory minimum remuneration for time work fixed by a wages regulation order in respect of the worker for work to which that order applies and at the same rate for work (if any) to which that order does not apply.
„ 44 „	One and five-sixths times the amount in Col. 3	
„ 40 „	One and two-thirds times the amount in Col. 3	
„ 36 „	One and one-half times the amount in Col. 3	
„ 32 „	One and one-third times the amount in Col. 3	
„ 28 „	One and one-sixth times the amount in Col. 3	
„ 24 „	The amount in Col. 3	
„ 20 „	Five-sixths of the amount in Col. 3	
„ 16 „	Two-thirds of the amount in Col. 3	
„ 12 „	One-half of the amount in Col. 3	
„ 8 „	One-third of the amount in Col. 3	
„ 4 „	One-sixth of the amount in Col. 3	

(b) Where the worker's normal working week is one of five days or less—

Col. 1	Col. 2			Col. 3
Period of employment	Accrued holiday remuneration for workers with a normal working week of—			Accrued holiday remuneration for full normal working week
	5 days	4 days	3 days or less	
At least:				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 statutory minimum remuneration for time work fixed by a wages regulation order in respect of the worker for work to which that order applies, and at the same rate for work (if any) to which that order does not apply.
48 weeks	Twice the amount in Col. 3	—	—	
43 weeks	One and four-fifths times the amount in Col. 3	—	—	
38 weeks	One and three-fifths times the amount in Col. 3	Twice the amount in Col. 3	—	
33 weeks	One and two-fifths times the amount in Col. 3	One and three-quarters times the amount in Col. 3	—	
28 weeks	One and one-fifth times the amount in Col. 3	One and one-half times the amount in Col. 3	Twice the amount in Col. 3	
24 weeks	The amount in Col. 3	One and one-quarter times the amount in Col. 3	One and two-thirds times the amount in Col. 3	
19 weeks	Four-fifths of the amount in Col. 3	The amount in Col .3	One and one-third times the amount in Col. 3	
14 weeks	Three-fifths of the amount in Col. 3	Three-quarters of the amount in Col. 3	The amount in Col. 3	
9 weeks	Two-fifths of the amount in Col. 3	One-half of the amount in Col. 3	Two-thirds of the amount in Col. 3	
4 weeks	One-fifth of the amount in Col. 3	One-quarter of the amount in Col. 3	One-third of the amount in Col. 3	

(3) Any accrued holiday remuneration payable under the provisions of this paragraph shall be reduced by the amount of accrued holiday remuneration already paid by the employer to the worker in pursuance of this Order or Order N.I.H.M (20) in respect of the same period of employment or part thereof.

PART V

GENERAL

Paragraph 10.

For the purpose of calculating any period of employment qualifying a worker for an annual holiday or for 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 twenty hours 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 of 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; or

(iii) he has been suspended throughout the week owing to shortage of work but not exceeding six weeks in the aggregate in the period of twelve 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 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 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 (Northern Ireland), 1945, that holiday or half-holiday shall be treated as part of the holiday allowed under this Schedule.

Paragraph 12.

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 commencement of the holiday season, or where under paragraph 9 accrued holiday remuneration is payable on 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.

"week" means "pay week."

Paragraph 13.

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.