1952 No. 18

The Keg and Drum Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1952

Made - - - - 4*th January*, 1952
Coming into Operation 18*th January*, 1952

Whereas the Minister of Labour and National Service (hereinafter in this Order referred to as " the Minister ") has received from the Keg and Drum Wages Council (Great Britain) (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 Keg and Drum Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1946(a) (hereinafter in this Order referred to as " Order K.D. (34) "), as amended by the Keg and Drum Wages Council (Great Britain) Wages Regulation Order, 1950(b) (hereinafter in this Order referred to as " Order K.D. (40) ");

Now, therefore, the Minister, by virtue of the powers conferred on him by section 10 of the Wages Councils Act, 1945(c), 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 Keg and Drum Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1952.

(2) In this Order the expression " the specified date " means the 18th day of January, 1952, 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(d), 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 K.D. (34) *and Order K.D.* (40)

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 K.D. (34) and Order K.D. (40) shall cease to have effect.

Signed by order of the Minister of Labour and National Service this 4th day of January, 1952.

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

(a) S.R. & O. 1946/1311; 1946 I, p. 1969 (b) S.I. 1950/1719; 1950 II, p. 1340.
(c) 8 & 9 Geo. 6. c. 17. (d) 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 K.D. (34) as amended by Order K.D. (40).

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 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 was in his employment on the day immediately preceding the customary holiday and (unless excused by the employer or absent by reason of the proved illness of the worker) worked for the employer throughout the last working day on which work was available to him immediately preceding the customary holiday.

(2) The said customary holidays are:—

(*a*) (i) In England and Wales—

Christmas Day (or, if Christmas Day falls on a Sunday, such week day as may be appointed by national proclamation, or, if none is so appointed, the next following Tuesday), Boxing Day, Good Friday, Easter Monday, Whit Monday and August Bank Holiday.

(ii) In Scotland—

New Year's Day (or, if New Year's Day falls on a Sunday, the following Monday);
the local Spring holiday;
the local Autumn holiday; and
three other days (being days on which the worker normally works for the employer) 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*) in the case of each of the said days (other than a day fixed by the employer in Scotland and notified to the worker as aforesaid) a day substituted by the employer therefor, 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 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 employer shall allow to the worker a day's holiday (hereinafter in this Schedule referred to as a "holiday in lieu of a customary holiday") on a week day on which he would normally work for the employer, within the period of three weeks next ensuing.

PART III

ANNUAL HOLIDAYS

Paragraph 3

(1) Subject to the provisions of paragraph 4 of this Schedule, in addition to the holidays specified in Part II of this Schedule, an employer shall, between the 1st day of April and the 31st day of October, 1952, and in each succeeding year between the 1st day of April and the 31st day of October,

(hereinafter in this Schedule referred to as the "holiday season") 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 12 months immediately preceding the commencement of the holiday season for any of the periods specified below and the duration of the annual holiday shall be related to his period of employment during that twelve months as follows:—

Period of employment	Duration of annual holiday for workers with a normal working week of—		
	Six days	*Five days*	*Four days or less*
Column 1	Column 2	Column 3	Column 4
At least 48 weeks	*12 days*	*10 days*	*8 days*
,, ,, *44* ,, ...	*11* ,,	*9* ,,	*7* ,,
,, ,, *40* ,, ...	*10* ,,	*8* ,,	*6* ,,
,, ,, *36* ,, ...	*9* ,,	*7* ,,	*6* ,,
,, ,, *32* ,, ...	*8* ,,	*6* ,,	*5* ,,
,, ,, *28* ,, ...	*7* ,,	*5* ,,	*4* ,,
,, ,, *24* ,, ...	*6* ,,	*5* ,,	*4* ,,
,, ,, *20* ,, ...	*5* ,,	*4* ,,	*3* ,,
,, ,, *16* ,, ...	*4* ,,	*3* ,,	*2* ,,
,, ,, *12* ,, ...	*3* ,,	*2* ,,	*2* ,,
,, ,, *8* ,, ...	*2* ,,	*1 day*	*1 day*
,, ,, *4* ,, ...	*1 day*	*1* ,,	—

(2) Notwithstanding the provisions of the last foregoing sub-paragraph the number of days of annual holiday which an employer is required to allow to a worker in any holiday season shall not exceed in the aggregate *twice* the number of days constituting the worker's normal working week.

Paragraph 4

(1) Annual holidays under this Schedule shall be allowed on consecutive working days, being days on which the worker is normally called upon to work for the employer, and days of annual holiday shall be treated as consecutive notwithstanding that a Sunday, a customary holiday on which the worker is not required to work for the employer or a holiday in lieu of a customary holiday intervenes.

Provided that where the duration of an annual holiday which an employer is required to allow to a worker exceeds the number of days constituting the worker's normal working week the said holiday may be allowed in two separate periods of such consecutive working days, and in that event, notwithstanding the foregoing provisions of this Schedule, the annual holiday shall be allowed as follows:—

(a) as to one period, not being less than the period constituting the worker's normal working week, during the holiday season, and

(b) as to the other period, during the holiday season or within the period ending on the 31st day of March immediately following the holiday season.

(2) Subject to the provisions of sub-paragraph (1) 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, 1945.

Paragraph 5

An employer shall give to a worker reasonable notice of the commencing date or dates and duration of the period or periods 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 AND HOLIDAYS IN LIEU OF CUSTOMARY HOLIDAYS

Paragraph 6

(1) Subject to the provisions of this paragraph, for each day of holiday to which a worker is entitled under Part II of this Schedule he shall be paid by the employer holiday remuneration equal to the amount to which he would have been entitled, calculated at the appropriate rate of statutory minimum remuneration, if the day had not been a day of holiday and he had worked on that day on work for which statutory minimum remuneration is payable for the time usually worked by him on that day of the week.

Provided, however, that 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 first working day following the holiday and works his normal hours of work on that day or, if he fails to do so, failure is by reason of the proved illness of the worker or with the consent of the employer.

(2) The holiday remuneration in respect of any customary holiday shall be paid by the employer to the worker *not later than* the pay day on which the wages are paid for the first working day following the holiday.

(3) The holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid *not later than* the pay day on which the wages are paid for the first working day following the holiday in lieu of a customary holiday. 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 a holiday in lieu of a customary holiday to which he is entitled, *and in that case the condition specified in sub-paragraph (1) of this paragraph shall not apply.*

B—ANNUAL HOLIDAYS

Paragraph 7

(1) Subject to the provisions of paragraph 8 of this Schedule, a worker qualified 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, *one day's holiday pay (as defined in paragraph 11 of this Schedule) in respect of each day thereof.*

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

Paragraph 8

Where any accrued holiday remuneration has been paid by the employer to the worker in accordance with paragraph 9 of this Schedule or in accordance with the provisions of Order K.D. (34) as amended by Order K.D. (40) in respect of employment during any of the periods referred to in that paragraph or that Order respectively, 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.*

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

Paragraph 9

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 as accrued holiday remuneration:—

(1) in respect of employment in the twelve months up to the 31st day of the preceding March, a sum equal to the holiday remuneration for any days of annual holiday for which he has qualified, except days of annual holiday which he has been allowed or has become entitled to be allowed before leaving the employment; and

(2) in respect of any employment since the 31st day of the preceding March, a sum equal to the holiday remuneration which would have been payable to him if he could have been allowed an annual holiday in respect of that employment at the time of leaving it.

PART V

GENERAL

Paragraph 10

For the purposes of calculating any period of employment qualifying a worker for an annual 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 twenty-four hours and has performed some work for which statutory minimum remuneration is payable; or

(*b*) (i) he has been absent throughout the week, or

(ii) he has worked for the employer for less than twenty-four hours

solely 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 reason shall not exceed six in the aggregate in the period of twelve months immediately preceding the commencement of the holiday season; or

(*c*) he is absent from work owing to suspension due to shortage of work, provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed four in the aggregate in the period of twelve months last mentioned, and

(2) 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 (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.

Paragraph 11

In this Schedule, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"appropriate rate of statutory minimum remuneration" means—

(a) in the case of a time worker, the rate or rates of statutory minimum remuneration applicable to the worker, and

(b) in the case of a piece worker, the rate or rates of statutory minimum remuneration which would be applicable to the worker if he were a time worker.

"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 during the twelve months immediately preceding the commencement of the holiday season or, where under paragraph 9 of this Schedule accrued holiday remuneration is payable on the termination of the employment, during 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.

"*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 where the holiday is allowed in more than one period at the date of the first period) or at the termination date, 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 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.

"statutory minimum remuneration" means statutory 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" in paragraphs 3 and 10 means "pay week."

Paragraph 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, but is intended to indicate its general purport.)

This Order, which has effect from the 18th January, 1952, fixes the annual holidays and certain other days of holiday which an employer is required to allow to workers in relation to whom the Keg and Drum Wages Council (Great Britain) operates, and the holiday remuneration payable in respect of such holidays.

It supersedes Order K.D. (34), as amended by Order K.D. (40), which are revoked. New provisions in the Schedule are printed in italics.