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 16th May, 1949, amends Order R.B. (27) (as amended by Order R.B. (30)) by altering the grading of two Areas listed in the Table of Areas contained in paragraph 22 of the Schedule to that Order and by specifying the area in which an outworker is deemed to be employed for the purposes of that Schedule.

The Retail Bespoke Tailoring Wages Council (England and Wales) Wages Regulation (Holidays) Order, 1949

1949 No. 771

Made - - - - 21*st April*, 1949
Coming into Operation 16*th May*, 1949

R.B. (34)

Whereas the Minister of Labour and National Service (hereinafter referred to as "the Minister") has received from the Retail Bespoke Tailoring Wages Council (England and Wales) (hereinafter 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 Retail Bespoke Tailoring Wages Council (England and Wales) Wages Regulation (Holidays) Order, 1947(a) (hereinafter referred to as "Order R.B. (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 Retail Bespoke Tailoring Wages Council (England and Wales) Wages Regulation (Holidays) Order, 1949.

(2) In this Order the expression "the specified date" means the 16th day of May, 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 R.B. (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 R.B. (28)(a) shall cease to have effect.

Signed by order of the Minister of Labour and National Service this 21st day of April, 1949.

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

(a) S.R. & O. 1947 (No. 603) I, p. 2563. (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 R.B. (28).

PART I

APPLICATION

Paragraph 1

This Schedule applies to every worker for whom statutory minimum remuneration has been fixed other than a worker who has more than two workers in his employment.

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 referred to as a "customary holiday") in each year on each of the days specified in the following sub-paragraph, provided that the worker shall have been in his employment for a period of not less than eight weeks immediately preceding the customary holiday and shall have worked for the employer during the whole or part of that period.

(2) The days of customary holiday are:—

(*a*) Christmas Day (or, if Christmas Day falls on a Sunday, such other 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; or

(*b*) in the case of each of the said days, a day substituted 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 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 week-day on which he would normally work within the period of three weeks next ensuing.

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

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

(*b*) in respect of the holiday in lieu of the customary holiday, holiday remuneration in accordance with paragraph 7 (1) (*a*) of this Schedule.

PART III

ANNUAL HOLIDAYS

Paragraph 3

(1) In addition to the holidays specified in Part II of this Schedule an employer shall, between the 1st day of May and the 30th day of September, 1949, and in each succeeding year between the 1st day of May and the 30th day of September (in this Schedule 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 has been employed by him during the twelve months immediately preceding the commencement

of the holiday season *for not less than such one of the periods of employment (calculated in accordance with the provisions of paragraph 16 of this Schedule) as is set out in the first 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:—*

Period of employment	*Duration of annual holiday*
48 weeks	*12 days*
44 „	*11* „
40 „	*10* „
36 „	*9* „
32 „	*8* „
28 „	*7* „
24 „	*6* „
20 „	*5* „
16 „	*4* „
12 „	*3* „
8 „	*2* „
4 „	*1 day*

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

An annual holiday shall be allowed on consecutive working days, being days upon which the worker is normally called upon to work, and days of holiday shall be treated as consecutive notwithstanding the intervention of a customary holiday or a holiday in lieu of a customary holiday:

Provided that:—

(*a*) *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, if one of such periods is not less than the period constituting the worker's normal working week;*

(*b*) the last day of the annual holiday or, as the case may be, of either of such separate periods, may be allowed on a non-consecutive working day (other than the worker's weekly short day) falling within the holiday season 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, other than an outworker, 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.

Paragraph 6

(1) An outworker shall give to the employer at least fourteen days' notice of the date in the holiday season on which he proposes to commence the annual holiday to which he is entitled under this Schedule, and the holiday shall be allowed by the employer as from that date or from such other date in the holiday season as may be substituted therefor by agreement between the employer and the outworker.

(2) Where no notice has been given or agreement made in accordance with sub-paragraph (1) of this paragraph, the employer shall allow the outworker the annual holiday to which he is entitled in the last *two weeks* of the holiday season.

PART IV

HOLIDAY REMUNERATION

CUSTOMARY HOLIDAYS

Paragraph 7

(1) Subject to the provisions of this paragraph, for each day of customary holiday to which a worker is entitled under Part II of this Schedule:—

(*a*) a worker other than a worker to whom (*b*) of this sub-paragraph applies shall be paid by the employer holiday remuneration equal to 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 holiday and he had been employed on work to which statutory minimum remuneration applies:—

(i) in the case of a worker whose normal working week is 30 hours or less, for 4¼ hours, or

(ii) in the case of a worker whose normal working week is more than 30 hours, for 8 hours.

(*b*) a worker who is customarily employed by two or more employers and who has been so employed during the whole or any part of the eight weeks immediately preceding the customary holiday shall be paid, by each of the employers for whom he has worked during the whole or any part of those eight weeks, holiday remuneration equal to 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 been employed on work to which statutory minimum remuneration applies for 4 hours.

(2) The holiday remuneration in respect of any customary holiday or holiday in lieu of a customary holiday allowed under Part II of this Schedule shall be paid by the employer to the worker on the pay day on which wages are payable for the first working day following that holiday. Provided that the said payment shall be made immediately upon the termination of the worker's employment if he ceases to be employed before being allowed a holiday in lieu of a customary holiday to which he is entitled.

ANNUAL HOLIDAYS

WORKERS OTHER THAN OUTWORKERS

Paragraph 8

(1) Subject to the provisions of this Schedule, a worker, *other than an outworker*, 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, *holiday remuneration in accordance with the following table:—*

TABLE OF HOLIDAY REMUNERATION FOR WORKERS OTHER THAN OUTWORKERS

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*	*Three 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 (or where the holiday is taken in more than one period at the date of the first period), for one 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 to which statutory minimum remuneration applies and at the same rate for any work for the same employer to which statutory minimum remuneration does not apply.*
11 „	*One and five-sixths of the amount in Col. 3.*	—	—	—	
10 „	*One and two-thirds of the amount in Col. 3.*	*Twice the amount in Col. 3.*	—	—	
9 „	*One and one-half of the amount in Col. 3.*	*One and four fifths of the amount in Col. 3.*	—	—	
8 „	*One and one-third of the amount in Col. 3.*	*One and three fifths of the amount in Col. 3.*	*Twice the amount in Col. 3.*	—	
7 „	*One and one-sixth of the amount in Col. 3.*	*One and two-fifths of the amount in Col. 3.*	*One and three-quarters of the amount in Col. 3.*	—	
6 „	*The amount in Col. 3.*	*One and one-fifth of the amount in Col. 3.*	*One and one-half of the amount in Col. 3.*	*Twice the amount in Col. 3.*	
5 „	*Five-sixths of the amount in Col. 3.*	*The amount in Col. 3.*	*One and one-quarter of the amount in Col. 3.*	*One and two-thirds of 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.*	*One and one-third of 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.*	*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.*	*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) *In the application of the provisions of the foregoing table to the case of a piece worker the appropriate statutory minimum remuneration for time work is the appropriate minimum rate that would have been applicable to that worker 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 9

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 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 10

(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 FOR WORKERS OTHER THAN OUTWORKERS

Column 1 *Period of employment*	*Column 2* *Accrued holiday remuneration for workers with a normal working week of:—*				*Column 3* *Accrued holiday remuneration for full normal working week*
	Six days	*Five days*	*Four days*	*Three days or less*	
After 48 weeks' employment calculated in accordance with the provisions of paragraph 16 of this Schedule.	*Twice the amount in Col. 3.*	*Twice the amount in Col. 3.*	*Twice the amount in Col. 3.*	*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 to which statutory minimum remuneration applies and at the same rate for any work for the same employer to which statutory minimum remuneration does not apply.*
After 44 weeks' such employment.	*One and five-sixths of the amount in Col. 3.*	*One and four-fifths of the amount in Col. 3.*	*One and three-quarters of the amount in Col. 3.*	*One and two-thirds of the amount in Col. 3.*	
After 40 weeks' such employment.	*One and two-thirds of the amount in Col. 3.*	*One and three-fifths of the amount in Col. 3.*	*One and one-half of the amount in Col. 3.*	*One and two-thirds of the amount in Col. 3.*	
After 36 weeks' such employment.	*One and one-half of the amount in Col. 3.*	*One and two-fifths of the amount in Col. 3.*	*One and one-half of the amount in Col. 3.*	*One and one-third of the amount in Col. 3.*	
After 32 weeks' such employment.	*One and one-third of the amount in Col. 3.*	*One and one-fifth of the amount in Col. 3.*	*One and one-quarter of the amount in Col. 3.*	*One and one-third of the amount in Col. 3.*	
After 28 weeks' such employment.	*One and one-sixth of the amount in Col. 3.*	*The amount in Col. 3.*	*The amount in Col. 3.*	*The amount in Col. 3.*	
After 24 weeks' such employment.	*The amount in Col. 3.*	*The amount in Col. 3.*	*The amount in Col. 3.*	*The amount in Col. 3.*	
After 20 weeks' such employment.	*Five-sixths of the amount in Col. 3.*	*Four-fifths of the amount in Col. 3.*	*Three-quarters of the amount in Col. 3.*	*Two-thirds of the amount in Col. 3.*	
After 16 weeks' such employment.	*Two-thirds of the amount in Col. 3.*	*Three-fifths of the amount in Col. 3.*	*One-half of the amount in Col. 3.*	*Two-thirds of the amount in Col. 3.*	
After 12 weeks' such employment.	*One-half of the amount in Col. 3.*	*Two-fifths of the amount in Col. 3.*	*One-half of the amount in Col. 3.*	*One-third of the amount in Col. 3.*	
After 8 weeks' such employment.	*One-third 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.*	
After 4 weeks' such employment.	*One-sixth of the amount in Col. 3.*	*One-fifth of the amount in Col. 3.*	—	—	

(2) *In the application of the provisions of the last foregoing table to the case of a piece worker the appropriate 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 (whether under this Schedule or under the Schedule to Order R.B. (28)) in respect of the period for which the accrued holiday remuneration is payable.

Paragraph 11

Where (whether under the provisions of this Schedule or of the Schedule to Order R.B. (28)) 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 said accrued holiday remuneration unless that remuneration has been deducted from a previous payment of holiday remuneration made under the provisions of this Schedule.

OUTWORKERS

Paragraph 12

(1) *Subject to the provisions of this Schedule, an outworker 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, holiday remuneration equal to 3/100ths of the total remuneration (as defined in paragraph 18 of this Schedule), other than holiday remuneration, paid by the employer to the worker in respect of work performed by the worker for the employer during the period of twelve months immediately preceding the commencement of the holiday season.*

(2) *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 13

Where an employer has ceased for a continuous period of one calendar month to give out work to an outworker before that worker has become entitled to be allowed an annual holiday or before he has been allowed the whole of any annual holiday to which he is entitled under this Schedule the day on which the said calendar month expires shall be treated for the purposes of this Schedule as the day on which the outworker's employment with the employer is terminated and the employer shall, immediately thereafter, pay to the worker any holiday remuneration which has accrued to that worker in accordance with the provisions of the next following paragraph.

Paragraph 14

(1) *Subject to the provisions of this paragraph, holiday remuneration shall accrue to an outworker 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 accrued holiday remuneration shall be a sum equal to 3/100ths of the total remuneration (as defined in paragraph 18 of this Schedule), other than holiday remuneration, paid by the employer to the worker in respect of all work performed by the worker for the employer during the period of twelve months aforesaid.*

(2) *The amount of any accrued holiday remuneration payable on the termination of an outworker's employment in respect of his employment in 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 holiday remuneration for any day of annual holiday or of accrued holiday remuneration made by the employer to the worker in respect of his employment in the period or periods for which accrued holiday remuneration would otherwise be payable whether under the provisions of this Schedule or of the Schedule to Order R.B. (28).*

Paragraph 15

Where (whether under the provisions of this Schedule or of the Schedule to Order R.B. (28)) any accrued holiday remuneration has been paid by the employer to the outworker 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 the 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 said accrued holiday remuneration unless that remuneration has been deducted from a previous payment of holiday remuneration made under the provisions of this Schedule.

PART V

GENERAL

Paragraph 16

(1) For the purpose of calculating any period of employment entitling a worker, other than an outworker, to an annual 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 twenty-four 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 8 in the aggregate in any such period); 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 6 in the aggregate in any such period); and

(*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 (*a*) of this sub-paragraph, a worker who is absent on such a holiday shall be treated as having worked thereon 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) For the purpose of calculating any period of employment entitling an outworker to an annual holiday or to any accrued holiday remuneration under this Schedule, the worker shall be treated as if he were employed for a week in respect of any week in which he has worked for the employer and has performed some work to which statutory minimum remuneration applies.

Paragraph 17

Where any day of annual 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, the annual holiday shall be in addition to the said day of holiday or the said half-holiday.

Paragraph 18

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 commencement of the holiday season, or where under paragraphs 9 and 10 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 statutory minimum remuneration (other than holiday remuneration) which is for the time being subsisting by virtue of a Wages Regulation Order made by the Minister pursuant to proposals submitted to him by the Council.

"total remuneration" means the total net remuneration obtainable by the worker after allowing for necessary expenditure; and for the purpose of this Schedule "necessary expenditure" includes the cost of seat room, the cost of light and the cost of heat, as well as the cost of sewings and other materials provided by the worker.

"week" in paragraphs 3, 10 and 16 means "pay week".

"outworker" means a worker who works in his own home or in some other place not under the control or management of the employer.

Paragraph 19

The provisions of this Schedule do not prevent payment of higher rates of holiday remuneration or the granting of periods of holiday with pay in addition to those herein provided.

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 May, 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 a worker in relation to whom the Retail Bespoke Tailoring Wages Council (England and Wales) operates and the holiday remuneration payable in respect of such holidays.

It supersedes the Schedule to Order R.B. (28). New provisions are printed in italics.