1960 No. 1676

The Wages Regulation (Cutlery) (Holidays) Order, 1960

Made - - - - 13*th September*, 1960
Coming into Operation 3*rd October*, 1960

Whereas the Minister of Labour (hereafter in this Order referred to as "the Minister") has received from the Cutlery Wages Council (Great Britain) the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Minister, by virtue of the powers conferred on him by section 11 of the Wages Councils Act, 1959(a), and of all other powers enabling him in that behalf, hereby makes the following Order:—

1. This Order may be cited as the Wages Regulation (Cutlery) (Holidays) Order, 1960.

2.—(1) In this Order the expression "the specified date" means the 3rd day of October, 1960, 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.

(2) The Interpretation Act, 1889(b), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament and as if this Order and the Order hereby revoked were Acts of Parliament.

3. The wages regulation proposals set out in the Schedule hereto shall have effect as from the specified date and as from that date the Cutlery Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1952(c), shall cease to have effect.

Signed by order of the Minister of Labour this 13th day of September, 1960.

L. N. Helsby,
Secretary,
Ministry of Labour.

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 Cutlery Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1952 (hereinafter referred to as "Order C.T. (53)") as amended by the Second Schedule to the Wages Regulation (Cutlery) Order, 1959 (hereinafter referred to as "Order C.T. (63)").

(a) 7 & 8 Eliz. 2. c. 69. (b) 52 & 53 Vict. c. 63. (c) S.I. 1952/957 (1952 III, p. 3613).

PART I

APPLICATION

1. This Schedule applies to every worker for whom statutory minimum remuneration has been fixed except that Part II shall not apply to any outworker and Part III shall not apply to an outworker who is :—

(*a*) required by his employer to supply parts or materials for incorporation in any articles the manufacture of which is included in the Cutlery Trade, as specified in the Schedule to the Trade Boards (Cutlery Trade, Great Britain) (Constitution and Proceedings) Regulations, 1933(a), or

(*b*) engaged on his own account in the sale of the said articles referred to in (*a*) of this sub-paragraph or any of them.

PART II

CUSTOMARY HOLIDAYS

2.—(1) An employer shall allow to every worker (other than an outworker) in his employment 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 four weeks immediately preceding the customary holiday and has worked for the employer during the whole or part of that period and (unless excused by the employer or absent by reason of the proved illness of the worker) has 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 weekday 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) 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 either a day recognised by local custom as a day of holiday in substitution for the said day or a weekday agreed between the employer and the worker or his representative.

(a) S.R. & O. 1933/1056 (Rev. XXIII, p. 471 : 1933, p. 2035).

(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 qualified to be allowed a customary holiday under the foregoing provisions of this Schedule to work thereon, and, where he does so the employer shall allow to the worker a day's holiday (hereinafter referred to as a "holiday in lieu of a customary holiday") on a weekday on which he would normally work for the employer (not being the worker's weekly short day) within the six weeks immediately following the customary holiday.

(4) A worker who is required to work on a customary holiday which he is otherwise entitled to be allowed 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, holiday remuneration in accordance with paragraph 6.

PART III

ANNUAL HOLIDAY

3.—(1) Subject to the provisions of paragraph 4, in addition to the holidays specified in Part II of this Schedule an employer shall, between 1st May, 1961, and 30th September, 1961, and in each succeeding year between 1st May 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 Part of this Schedule applies, who has been employed by him during the twelve months immediately preceding the commencement of the holiday season for any of the periods specified in sub-paragraph (*a*) in the case of a worker other than an outworker, or for the period specified in sub-paragraph (*b*) in the case of an outworker, and the duration of a worker's holiday shall be related to his period of employment during that twelve months as follows:—

(*a*) in the case of a worker other than an outworker:—

Period of employment	Duration of annual holiday for workers with a normal working week of—		
	Six days	Five days	Four days or less
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 „	—

Provided that 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.

(*b*) in the case of an outworker:—

Period of employment	Duration of holiday
Any period of employment	Twice the number of days constituting the worker's normal working week.

4.—(1) An annual holiday 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—

(i) 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 one of which shall be not less than the period constituting the worker's normal working week;

(ii) 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 period of six weeks next ensuing where the annual holiday, or a period of annual holiday, as the case may be, is allowed immediately after a customary holiday on which the worker is not required to work or so that such a holiday intervenes.

(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, 1959.

5.—(1) An employer shall give to a worker other than an outworker 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.

(2) Where an employer is required to allow an outworker an annual holiday, the employer or the outworker shall give to the other at least 14 days' notice of the allowing or taking of that holiday, as the case may be, and of its commencing date. Where no such notice is given, the holiday shall be allowed and taken in the last two weeks of the holiday season.

PART IV

HOLIDAY REMUNERATION

A—CUSTOMARY HOLIDAYS AND HOLIDAYS IN LIEU OF CUSTOMARY HOLIDAYS

6.—(1) Subject to the provisions of this paragraph, for each day of holiday which a worker is allowed 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 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:—

(*a*) in the case of a time worker, for 8 hours at the general minimum time rate applicable to him, or

(*b*) in the case of a piece worker, for 8 hours at a time rate equal to the piece work basis time rate applicable to him:

Provided that where the number of hours normally worked in a week by a female worker is less than 30 hours, the said holiday remuneration shall be half the amount aforesaid.

(2) Notwithstanding the provisions of the foregoing sub-paragraph, payment of the said holiday remuneration is subject to the condition that the worker presents himself for employment within one hour of the usual starting hour on the first working day following the holiday and works throughout the remainder of 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.

(3) The holiday remuneration in respect of any 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 paid for the first working day following the holiday:

Provided that where a worker ceases to be employed before being allowed a holiday in lieu of a customary holiday, he shall be paid the holiday remuneration for that day immediately upon the termination of his employment and in such a case the condition contained in sub-paragraph (2) of this paragraph shall not apply.

B—ANNUAL HOLIDAY

7.—(1) Subject to the provisions of paragraph 8, 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, holiday remuneration as follows, that is to say:—

(*a*) *in the case of an adult male worker other than an outworker, one twenty-fifth of the amount specified in the next following sub-paragraph, but not exceeding £19;*

(*b*) *in the case of an adult female worker other than an outworker, one twenty-fifth of the amount specified in the next following sub-paragraph, but not exceeding £15 19s. 0d.;*

(*c*) *in the case of a male or female worker under 21 years of age other than an outworker, one twenty-fifth of the amount specified in the next following sub-paragraph, but not exceeding the amount obtained by multiplying by 84 the minimum hourly rate of remuneration applicable to the worker at the commencement of the holiday season;*

(*d*) in the case of an outworker who is a grinder, one twenty-fifth of 85 per cent. of the amount specified in the next following sub-paragraph;

(*e*) in the case of any other outworker, one twenty-fifth of 90 per cent. of the amount specified in the next following sub-paragraph.

(2) The amount referred to in sub-paragraph (1) of this paragraph is the total remuneration, 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 12 months immediately preceding the commencement of the holiday season.

(3) Where under the provisions of paragraph 4:—

(*a*) an annual holiday is allowed in more than one period, the holiday remuneration shall be apportioned accordingly;

(*b*) one day of annual holiday is allowed on a non-consecutive working day the holiday remuneration for that day shall be paid to the worker on the pay day next following that day.

8. Where any accrued holiday remuneration has been paid by the employer to the worker (in accordance with paragraph 9 of this Schedule or with Order C.T. (53), as amended by the Second Schedule to Order C.T. (63)) in respect of any employment during any of the periods referred to in that paragraph or those Orders 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 or of Order C.T. (53) as amended.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

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 30th day of the preceding April, 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 30th day of the preceding April, 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 or, in the case of a worker other than an outworker, a sum calculated at the rate of 7s. 3d. in respect of each week of employment since the said 30th day of April, whichever is the less.

PART V
GENERAL

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;

(*b*) he has been absent throughout the week, or he has worked for the employer for less than twenty-four hours 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 throughout the week 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 nine 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 or of Order C.T. (53), 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.

11. 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 paragraph 9 accrued holiday remuneration is payable on the termination of the employment, in the twelve 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.

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

"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 Cutlery Wages Council (Great Britain).

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

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 3rd October, 1960, 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 Cutlery Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1952 (Order C.T. (53)), as amended by the Second Schedule to the Wages Regulation (Cutlery) Order, 1959 (Order C.T. (63)). Order C.T. (53) is revoked.

New provisions are printed in italics.