1957 No. 1789

The Wages Regulation (Unlicensed Place of Refreshment) (Holidays) Order, 1957

Made - - - - 15*th October*, 1957
Coming into Operation 11*th November*, 1957

Whereas the Minister of Labour and National Service (hereafter in this Order referred to as "the Minister") has received from the Unlicensed Place of Refreshment Wages Board (hereafter in this Order referred to as "the Wages Board") the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Minister, by virtue of the powers conferred on him by section 8 of the Catering Wages Act, 1943(**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 (Unlicensed Place of Refreshment) (Holidays) Order, 1957.

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

3. The wages regulation proposals set out in the Schedule hereto shall have effect as from the 11th day of November, 1957, and as from that date the Wages Regulation (Unlicensed Place of Refreshment) (Holidays) Order, 1951(**c**), shall cease to have effect.

Signed by order of the Minister of Labour and National Service this 15th day of October, 1957.

Harold Emmerson,
Secretary,
Ministry of Labour and National Service.

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 Wages Regulation (Unlicensed Place of Refreshment) (Holidays) Order, 1951 (hereafter in this Order referred to as "Order U.P.R. (10)") as amended by the Wages Regulation (Unlicensed Place of Refreshment) Order, 1953(**d**) (Order U.P.R. (14)).

(**a**) 6 & 7 Geo. 6. c. 24. (**b**) 52 & 53 Vict. c. 63.
(**c**) S.I. 1951/747 (1951 I, p. 183). (**d**) S.I. 1953/1611 (1953 I, p. 200).

PART I

APPLICATION

1. This Schedule applies to every worker, other than an occasional worker, for whom statutory minimum remuneration has been fixed.

PART II

ANNUAL HOLIDAYS

DURATION OF ANNUAL HOLIDAYS

2.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, and paragraphs 3, 4 and 5 of this Schedule, an employer shall, between the 1st day of April, 1958 and the 31st day of October, 1958, and in each succeeding year between the 1st day of April and the 31st day of October (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 twelve months immediately preceding the commencement of the holiday season (hereinafter referred to as the "qualifying period") for any of the periods specified below, and the duration of the annual holiday shall be related to the period of the worker's employment during the qualifying period as follows:—

Period of employment during the qualifying period (1)	Duration of annual holiday for a worker *whose normal working week (as defined in paragraph 12) is*				
	more than 5 days (2)	5 days (3)	4 days (4)	3 days (5)	2 days (6)
At least 8 weeks	2 days	1 day	1 day	1 day	—
„ „ 12 „	3 „	2 days	2 days	1 „	1 day
„ „ 16 „	4 „	3 „	2 „	2 days	1 „
„ „ 20 „	5 „	4 „	3 „	2 „	1 „
„ „ 24 „	6 „	5 „	4 „	3 „	2 days
„ „ 28 „	7 „	6 „	4 „	3 „	2 „
„ „ 32 „	8 „	6 „	5 „	4 „	2 „
„ „ 36 „	9 „	7 „	5 „	4 „	3 „
„ „ 40 „	10 „	8 „	6 „	5 „	3 „
„ „ 44 „	11 „	9 „	7 „	5 „	3 „
„ „ 48 „	12 „	10 „	8 „	6 „	4 „

(2) Notwithstanding the provisions of the last foregoing sub-paragraph, where a worker who is normally employed on not less than four days a week and who has not been in the continuous employment of his employer during the four years immediately preceding the commencement of the holiday season has qualified under sub-paragraph (1) of this paragraph for more days of annual holiday than the number of days on which it is normal for the worker to work in a week, the employer may require that worker to take part of his annual holiday after the end of the holiday season and before the 31st March next following.

The number of days which an employer may so require a worker to take shall be related to the period of the worker's employment during the four years immediately preceding the commencement of the holiday season in accordance with the following Table and shall not exceed the number of days specified in column 2, 3 or 4 of that Table appropriate to the worker:—

Period of continuous employment during the four years immediately preceding the commencement of the holiday season	Number of days of annual holiday which the employer may require the worker to take after the end of the holiday season for a worker *whose normal working week (as defined in paragraph 12) is*		
	more than 5 days	5 days	4 days
(1)	(2)	(3)	(4)
At least 28 weeks	1 day	1 day	—
„ „ 32 „	2 days	1 „	1 day
„ „ 36 „	3 „	2 days	1 „
„ „ 40 „	4 „	3 „	2 days
„ „ 44 „	5 „	4 „	3 „
„ „ 48 „	6 „	5 „	4 „
„ „ 18 months	5 „	5 „	4 „
„ „ 24 „	4 „	4 „	3 „
„ „ 30 „	3 „	3 „	2 „
„ „ 36 „	2 „	2 „	2 „
„ „ 42 „	1 day	1 day	1 day
„ „ 48 „	nil	nil	nil

Any days of annual holiday allowed to a worker after the end of a holiday season under the provisions of this sub-paragraph shall be treated for the purposes of this Schedule as having been allowed during such holiday season.

AGREEMENT TO TAKE ANNUAL HOLIDAY OUTSIDE THE HOLIDAY SEASON

3. Notwithstanding the provisions of paragraph 2 of this Schedule, where a worker elects to take his annual holiday, or part thereof, outside the holiday season and in pursuance of an agreement in writing with his employer that the employer will allow such holiday at a given date after the end of the holiday season and before the commencement of the next following holiday season, the days of holiday so allowed shall for the purposes of this Schedule be treated as having been allowed during the preceding holiday season.

APPLICATIONS TO VARY THE HOLIDAY SEASON

4. Notwithstanding the provisions of paragraph 2 of this Schedule, the Wages Board may vary the holiday season as there set out in respect of any establishment if they receive an application for that purpose from an employer and are satisfied that it is reasonable to do so to meet special circumstances. Such variation may provide for the commencement of the holiday season earlier than 1st April or its extension beyond 31st October. An application relating to the commencement of the holiday season shall be made to the Wages Board not later than 6 weeks before the proposed operative date and an application to extend the duration of the holiday season, before 15th July. Any such alteration in the holiday season shall not become effective until notice of the decision of the Wages Board has been communicated to the employer concerned.

In the case of any variation of the commencement of the holiday season granted by the Wages Board under this provision the duration of the holiday of the worker or workers concerned shall be related to the period immediately preceding the commencement of the holiday season as varied.

SPELLS OF ANNUAL HOLIDAY

5. Subject to the provisions of paragraphs 2 (2) and 3 of this Schedule annual holidays shall be allowed on consecutive working days other than customary holidays and days of holiday shall be treated as consecutive notwithstanding that a day of rest or a customary holiday or a day in lieu of a customary holiday intervenes:

Provided that where the duration of an annual holiday for which a worker has qualified and which he is to be allowed during the holiday season in any year exceeds the number of days *constituting the worker's normal working week* the holiday may be allowed in two periods consisting in respect of each period of consecutive working days and in such a case one of those periods shall consist of days not less in number than the number of days *constituting the worker's normal working week.*

GENERAL

6. 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.

7. 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 Catering Wages Act, 1943, that holiday or half holiday may be treated as part of the annual holiday allowed under this Schedule except that holidays required to be allowed under the Shops Act, 1950(a), shall be treated as follows:—

(1) in the case of establishments in which section 17 of the Shops Act, 1950, applies:

(a) where a worker's total annual holiday under this Schedule does not exceed the number of days *constituting his normal working week* not more than one of the half holidays allowed under the said section of the Act may be treated as part of the worker's annual holiday;

(b) where a worker's total annual holiday exceeds the number of days *constituting his normal working week* not more than two of the half holidays allowed under the said section of the Act may be treated as part of the worker's annual holiday;

(2) in the case of establishments in which section 21 of the Shops Act, 1950, applies:

(a) any of the 6 consecutive days of holiday on full pay allowed under the said section of the Act may be treated as a day of annual holiday; and

(b) other holidays or half holidays allowed under the said section of the Act may be treated as part of the worker's annual holiday to the following extent:—

(i) where a worker's total annual holiday does not exceed the number of days *constituting his normal working week*—not more than one half holiday allowed under the said section of the Act;

(ii) where a worker's total annual holiday exceeds the number of days *constituting his normal working week*—not more than two half holidays or one whole holiday on a week day allowed under the said section of the Act.

(a) 14 Geo. 6. c. 28.

PART III

HOLIDAY REMUNERATION

REMUNERATION FOR ANNUAL HOLIDAY

8.—(1) Subject to the provisions of paragraph 9 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 12 of this Schedule) in respect of each day thereof.

(2) Where under the provisions of paragraph 2 (2), 3 or 5 of this Schedule an annual holiday is allowed in more than one period the holiday remuneration shall be apportioned accordingly.

9. Where under the provisions of paragraph 10 of this Schedule or under the provisions of Order U.P.R. (10) accrued holiday remuneration has been paid by the employer to the worker, in respect of any period of employment in the twelve months immediately preceding the holiday season within which an annual holiday is allowed by the employer to the worker in accordance with the provisions of this Schedule, the amount of holiday remuneration payable by the employer, in respect of the said annual holiday under the provisions of paragraph 8 of this Schedule, 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

10. Subject to the provisions of this paragraph, 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 (hereinafter called "the termination date"), pay to the worker accrued holiday remuneration, that is to say:—

(i) in respect of any period of employment occuring before the 1st day of April immediately preceding the termination date, an amount equal to the holiday remuneration to which the worker would have been entitled under the provisions of sub-paragraph (1) of paragraph 8 of this Schedule if he had been allowed an annual holiday in respect of that period of employment at the termination date LESS any holiday remuneration already paid for any day or days of annual holiday allowed on or subsequent to the 1st day of April aforesaid in respect of that period of employment; and

(ii) in respect of any period of employment since the last day of March immediately preceding the termination date, an amount equal to one day's holiday pay (as defined in paragraph 12 of this Schedule) for each day of annual holiday to which the worker would have been entitled under the provisions of paragraph 2 of this Schedule if by virtue of such period of employment he could have been allowed an annual holiday at the termination date, LESS any accrued holiday remuneration already paid by the employer to the worker in respect of that period, either under this Schedule or the Schedule to Order U.P.R. (10):

Provided that—

(a) accrued holiday remuneration is not payable in respect of any period of employment for which the worker has been allowed or become entitled to be allowed an annual holiday under this Schedule;

(b) accrued holiday remuneration shall not be payable to a worker if he is dismissed on the grounds of *gross misconduct* and is so informed *in writing* by the employer at the time of dismissal;

(c) where a worker is employed under a written contract of service and terminates his employment without having given to his employer the notice of that termination required under that contract, any accrued holiday remuneration payable by the employer to the worker shall be an amount equal to that payable under the foregoing provisions of this paragraph reduced by an amount equal to one day's holiday pay multiplied by the number of days of notice required under the written contract.

PART IV

CALCULATION OF EMPLOYMENT

11. 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 as having been employed for a week in respect of any week in which he has worked for the employer on not less than two days and has performed some work which entitled him to statutory minimum remuneration.

For the purposes of this paragraph a worker shall be treated as having worked for the employer when absent from work in any of the following circumstances:—

(a) on annual holidays allowed under this Schedule, customary holidays, and days in lieu of customary holidays;

(b) during proved sickness of or accident to the worker up to and not exceeding a maximum of 12 weeks in the aggregate during—

(i) the period of 12 months immediately preceding the commencement of the holiday season; and

(ii) any period commencing on the 1st day of April preceding the termination date and ending on the termination date:

Provided that for the purposes of paragraph 2 (2) of this Schedule all absences through proved sickness of or accident to the worker while in the employment of the employer, prior to the period of 12 months specified in sub-paragraph (b) (i) above, shall be treated as employment;

(c) by leave of the employer.

PART V

DEFINITIONS

12. In this Schedule the following expressions have, except where the context otherwise requires, the meanings hereby respectively assigned to them, that is to say—

"CUSTOMARY HOLIDAY" means—

(a) In England and Wales—Christmas Day (or, if Christmas Day falls on a Sunday such week day as may be prescribed by national proclamation or, if no such day is prescribed, the next following Tuesday), Boxing Day, Good Friday, Easter Monday, Whit Monday, August Bank Holiday and any day proclaimed as an additional Bank Holiday or a general holiday.

(b) In Scotland—

(i) 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;

(ii) three other week days 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 any other day or days falling within the same calendar year which may be substituted for such day or days by agreement between the employer and the worker or his representative; or

(c) where in any establishment it is not the custom or practice to observe such days as are specified in (a) or (b) (i) above as holidays, other days not fewer in number as may be substituted for such days by agreement between the employer and the worker or his representative.

"*NORMAL WORKING WEEK*" *means the average number of days worked in a week by a worker during the last four weeks in which he worked for the employer prior to*

(a) the annual holiday; or

(b) where accrued holiday remuneration is payable, the termination date;

and for the purposes of this definition

(i) a worker shall be treated as having worked for the employer on any day on which he was absent from work owing to proved illness or accident to the worker, on annual holiday, on a customary holiday or a holiday in lieu of a customary holiday;

(ii) a fraction of a day shall be reckoned as a day.

"OCCASIONAL WORKER" means a worker who undertakes engagements on either an hourly or a day to day basis.

"*ONE DAY'S HOLIDAY PAY*" *means the amount obtained by dividing the total remuneration applicable to the worker for the last four weeks during which he worked for the employer prior to the holiday or the termination date, as the case may be, by the number of days on which the worker worked for the employer during the said four weeks and in this definition the expression "remuneration applicable" means the statutory minimum remuneration (including special time but excluding overtime) to which the worker would be entitled if supplied by his employer with neither meals nor lodging and if the employer provided laundering and cleaning of overalls or uniform free of charge to the worker.*

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

"WEEK" means pay week.

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 11th November, 1957, 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 Wages Regulation (Unlicensed Place of Refreshment) (Holidays) Order, 1951 (Order U.P.R. (10)) as amended by the Wages Regulation (Unlicensed Place of Refreshment) Order, 1953 (Order U.P.R. (14)). Order U.P.R. (10) is revoked.

New provisions are printed in italics.