1974. No. 268 **[NC]**

WAGES COUNCILS

Wages Regulation (Road Haulage)

ORDER, DATED 25TH OCTOBER 1974, MADE BY THE DEPARTMENT OF MANPOWER SERVICES UNDER THE WAGES COUNCILS ACT (NORTHERN IRELAND) 1945.

The Department of Manpower Services, 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 Road Haulage Wages Council (Northern Ireland):—

Citation

1. This Order may be cited as the Road Haulage Wages Regulation (Holidays) Order (Northern Ireland) 1974.

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 Road Haulage Wages Regulation (Holidays) Order (Northern Ireland) 1970(b), shall cease to have effect.

Interpretation

3. In this Order the expression "the specified date" means the 12th day of November 1974, 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 Department of Manpower Services for Northern Ireland this 25th day of October 1974.

(L.S.)

J. H. Scott,
Assistant Secretary.

(a) 1945. c. 21.

(b) S.R. & O. (N.I.) 1970, No. 242.

SCHEDULE

Holidays and Holiday Remuneration

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 Road Haulage Wages Regulation (Holidays) Order (Northern Ireland) 1970(b) (Order N.I.R.H. (47)) as amended by the Road Haulage Wages Regulation (Amendment) Order (Northern Ireland) 1973(c) (Order N.I.R.H. (53)).

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 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 is in his employment on the day of the holiday.

(2) The said customary holidays are:—

Christmas Day (or, if Christmas Day falls on a Sunday, such other day as may be appointed by national proclamation or, if none is so appointed, either (a) the following Monday or (b) in the case where Boxing Day is allowed by the employer as a customary holiday, the following Tuesday), Easter Monday, and four other days (being days on which the worker would normally work) in the course of a calendar year, to be fixed by agreement between the employer and the worker or his representative.

(3) Notwithstanding the previous provisions of this paragraph an employer may (except where in the case of a young person such a requirement would be unlawful) require a worker who is otherwise entitled to a customary holiday under the foregoing provisions of this Schedule to work thereon and a worker who is so required to work on a customary holiday shall be paid in respect thereof an amount calculated on the basis of the wages due to him for the number of hours (excluding overtime) ordinarily worked by the worker on that day of the week at the time rate normally applicable to the worker and, in addition, one day's holiday pay (as defined in paragraph 12 of this Schedule).

PART III

ANNUAL HOLIDAYS

Paragraph 3.

(1) (a) In addition to the holidays specified in Part II of this Schedule, an employer shall, subject to the provisions of paragraph 4(b)(ii), between 1st April and 31st October 1972, and in each succeeding year between 1st April and 31st October (in this Schedule referred to as the "holiday

(c) S.R. & O. (N.I.) 1973, No. 449.

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 of the periods specified below, and the duration of the holiday shall be related to his period of employment during that 12 months as follows:—

(i) Workers who, on 1st January 1973, and in each succeeding year on 1st January, have completed 1 years continuous employment with the same employer:

Period of employment	Duration of holiday
At least 48 weeks	15 days
„ 43 „	12 „
„ 38 „	11 „
„ 33 „	9 „
„ 28 „	8 „
„ 24 „	6 „
„ 14 „	4 „
„ 9 „	3 „
„ 4 „	1 day

(ii) All other workers

Period of employment	Duration of holiday
At least 48 weeks	10 days
„ 43 „	9 „
„ 38 „	8 „
„ 33 „	7 „
„ 28 „	6 „
„ 24 „	5 „
„ 19 „	4 „
„ 14 „	3 „
„ 9 „	2 „
„ 4 „	1 day

(b) Notwithstanding the provisions contained in sub-paragraph (a), the number of days of annual holiday to which a worker shall be entitled in the holiday season commencing 1st April 1972, and in each holiday season thereafter shall not exceed in the aggregate:

(i) in respect of the workers described in (a)(i)—three times the number of days constituting the worker's normal working week.

(ii) in respect of the workers described in (a)(ii)—twice the number of days constituting the worker's normal working week.

(2) the duration of the worker's annual holiday during the holiday season ending 31st October *1974* shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of the Road Haulage Wages Council (Northern Ireland) Wages Regulation (Holidays) Order 1970 (Order N.I.R.H. (47)) between 1st April 1974, and the date upon which the provisions of this Schedule become effective.

Paragraph 4.

Annual holidays under this Schedule shall be allowed on consecutive working days, being days on which the worker is normally required to work, and days of holiday shall be treated as consecutive notwithstanding that a Sunday or a customary holiday or a holiday in lieu of a customary holiday intervenes.

Provided that—

(a) where the number of days of annual holiday for which a worker has qualified exceeds the period constituting his normal working week but does not exceed twice that number, the said annual holiday may, by agreement between the employer and the worker or his representative, be allowed in two separate periods of such consecutive working days provided that one of such periods is not less than the period constituting the worker's normal working week.

(b) where the number of days of annual holiday for which a worker has qualified exceeds twice the number of days constituting his normal working week the annual holiday may be allowed as follows—

(i) in two separate periods as in (a); and

(ii) as to any additional days on working days to be fixed by agreement between the employer and the worker or his representative within the period, commencing on the 1st November and ending on the 31st March, immediately following the holiday season.

Paragraph 5.

An employer shall give to a worker notice of the commencing date or dates and duration of the period or periods of his annual holiday. Such notice shall be given at least 28 days before the first day of the annual holiday or, where under the provisions of paragraph 4 of this Schedule an annual holiday is allowed in more than one period, before the first day of each separate period, and 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 holiday (including a holiday falling on a Saturday) to which a worker is entitled under Part II of this Schedule he 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 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,

provided that payment of the said holiday remuneration shall be subject to the condition that the worker presents himself for employment at the usual starting hour on the working day immediately preceding the holiday and on the first working day following the holiday and works for his employer for the normal number of hours during which work is available to him on each of those days or, if he fails to do so, failure is due to absence with the consent of his employer or to proved illness.

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

(3) 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 pay week including the customary holiday are paid.

B—Annual Holidays

Paragraph 7.

(1) Subject to the provisions of paragraph 8 of this Schedule, a worker entitled to be allowed an annual holiday under Part III of this Schedule shall be paid by his employer, 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 4 of this Schedule an annual holiday is allowed in two or more periods, 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) in respect of employment during any of the periods referred to in that 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 any of 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.

Subject to the provisions of this paragraph, if a worker ceases to be employed before being allowed or entitled to be allowed an annual holiday, the employer shall, immediately on the termination of the employment (hereinafter called "the termination date"), pay to the worker as accrued holiday remuneration:—

(1) in respect of any period of employment occurring during the 12 months ending on the 31st day of March immediately preceding the termination date, an amount equal to the holiday remuneration to which the worker would have been entitled under the provisions of paragraph 7 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 subsequently to the 1st day of April aforesaid in respect of that period of employment; and

(2) in respect of any period of employment since the 31st 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) multiplied by the number of days of annual holiday to which the worker would have been entitled under the provisions of paragraph 3 of this Schedule if by virtue of such period of employment he could have taken 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.

PART V

GENERAL

Paragraph 10.

For the purposes of calculating any period of employment entitling a worker 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 16 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 12 in the aggregate in the period of 12 months immediately preceding the commencement of the holiday season); 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 12 in the aggregate in the period of 12 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) 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 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.

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 while 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 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.

"one day's holiday pay" means the appropriate proportion of the worker's weekly remuneration, that is to say—

where the worker's normal working week is five days	.. one-fifth
where the worker's normal working week is four days	.. one-quarter
where the worker's normal working week is three days	.. one-third
where the worker's normal working week is two days	.. one-half
where the worker's normal working week is one day	.. the whole,

and in this definition, "weekly remuneration" means the remuneration which the worker would be entitled to receive from the employer at the date of the holiday or, where accrued holiday remuneration is payable, at the termination date, for one week's work—

(a) if working his normal working week and the daily number of hours normally worked by him (exclusive of overtime); and

(b) if paid at the appropriate rate of statutory minimum remuneration for work to which statutory minimum remuneration applies and at the same rate for any work for the same employer to which such remuneration does not apply.

"statutory minimum remuneration" means statutory minimum remuneration (other than holiday remuneration) which has been fixed by a Wages Regulation Order made by the Department to give effect to proposals submitted to it by the Road Haulage Wages Council (Northern Ireland).

"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 comes into operation on 12th November 1974, sets out the holidays and holiday remuneration in substitution for the holidays and holiday remuneration fixed by the Road Haulage Wages Regulation (Holidays) Order (Northern Ireland) 1970 (Order N.I.R.H. (47)).

Order N.I.R.H.(47) is revoked.

New provisions in the Schedule are printed in italics.