1980 No. 133

WAGES COUNCILS

Paper Box Wages Regulation (Holidays) Order (Northern Ireland) 1980

Made	*10th April 1980*
Coming into operation . . .	*22nd April 1980*

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**), and now vested in it(**b**), and of every other power enabling it in that behalf, hereby makes the following Order to give effect to wages regulation proposals received from the Paper Box Wages Council (Northern Ireland).

Citation

1. This Order may be cited as the Paper Box Wages Regulation (Holidays) Order (Northern Ireland) 1980.

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 Paper Box Wages Regulation (Holidays) Order (Northern Ireland) 1975(**c**) shall cease to have effect.

Interpretation

3. In this Order the expression "the specified date" means 22nd April 1980, 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 on 10th April 1980.

(L.S.) *R. O. Surgenor*
Assistant Secretary

(**a**) 1945 c. 21 (N.I.)
(**b**) 1946 c. 11 (N.I.); S.R. & O. (N.I.) 1964 No. 205 (p. 937) and S.R. & O. (N.I.) 1973 No. 504 Art. 6(1) and Sch. 3 (II. p. 2992)
(**c**) S.R. 1975 No. 260 (II, p. 1227)

[N.I.B. (113)]

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 Schedule to the Paper Box Wages Regulation (Holidays) Order (Northern Ireland) 1975 (Order N.I.B. (103)).

PART I

APPLICATION

Paragraph 1.

(1) This Schedule applies to every worker (other than an outworker) for whom statutory minimum remuneration has been fixed.

(2) An "outworker" is a worker who works in his or her own home or in any other place not under the control or management of the employer.

PART II

CUSTOMARY HOLIDAYS

Paragraph 2.

(1) An employer shall allow to every worker to whom this Schedule applies a holiday (hereafter 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 for not less than half 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) Christmas Day, Boxing Day, the day following Boxing Day and New Year's Day provided that—

(i) where Christmas Day, Boxing Day or New Year's Day falls on a Saturday and the worker does not normally work for the employer on a Saturday, the employer shall allow to the worker, instead of the customary holiday, a holiday in lieu on a day on which the worker normally works for the employer within the period of eight weeks immediately following the customary holiday;

(ii) where Christmas Day falls on a Sunday the customary holidays shall be Boxing Day and the next two following days;

(iii) where the day following Boxing Day or New Year's Day falls on a Sunday that Sunday shall not be treated as one of the customary holidays and a customary holiday shall be allowed to the worker on the Monday next following;

Easter Monday, Easter Tuesday and the Wednesday following the last-mentioned day, or

(b) a day substituted by the employer for any one of the said days, being either a day recognised by local custom as a day of holiday in substitution for the said day or a day agreed between the employer and the worker or his representative.

(3) Notwithstanding the provisions of sub-paragraphs (1) and (2), an employer may (except where in the case of a young person such a requirement would be unlawful) require a worker who is otherwise qualified to be allowed a customary holiday to work thereon, and, in lieu of any customary holiday on which he so works the worker shall be entitled to be allowed a day's holiday, (hereafter referred to as a "holiday in lieu of a customary holiday") within the period of four weeks next ensuing, on a day on which he normally works for the employer.

(4) A worker who is required to work on a customary holiday 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 HOLIDAYS

Paragraph 3.

(1) In addition to the customary holidays specified in Part II and subject to the provisions of sub-paragraph (2) of this paragraph and of paragraph 4 an employer shall, between 31st March *1980* and 30th September *1980*, and in each succeeding year, between 31st March and 30th September (hereafter referred to as the "holiday season") allow a holiday (hereafter 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 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:—

DURATION OF ANNUAL HOLIDAY IN 12 MONTHS COMMENCING 31st MARCH *1980*

Workers with a normal working week of 5 days	
Period of employment (weeks)	Duration of annual holiday (days)
1	*·38*
2	*·77*
3	*1·15*
4	*1·54*
5	*1·92*
6	*2·31*
7	*2·69*
8	*3·08*
9	*3·46*
10	*3·85*
11	*4·23*
12	*4·62*
13	*5·00*
14	*5·38*
15	*5·77*
16	*6·15*
17	*6·54*
18	*6·92*
19	*7·31*
20	*7·69*
21	*8·08*
22	*8·46*
23	*8·85*
24	*9·23*
25	*9·62*
26	*10·00*

DURATION OF ANNUAL HOLIDAY IN 12 MONTHS COMMENCING 31st MARCH *1980*—(continued)

Workers with a normal working week of 5 days	
Period of employment (weeks)	Duration of annual holiday (days)
27	*10·38*
28	*10·77*
29	*11·15*
30	*11·54*
31	*11·92*
32	*12·31*
33	*12·69*
34	*13·08*
35	*13·46*
36	*13·85*
37	*14·23*
38	*14·62*
39	*15·00*
40	*15·38*
41	*15·77*
42	*16·15*
43	*16·54*
44	*16·92*
45	*17·31*
46	*17·69*
47	*18·08*
48	*18·46*
49	*18·85*
50	*19·23*
51	*19·62*
52	*20·00*

(2) Notwithstanding the provisions of sub-paragraph (1):—

(a) the number of days of annual holiday which an employer is required to allow to a worker in respect of a period of employment during the 12 months immediately preceding 31st March *1980* and during the 12 months immediately preceding 31st March in each succeeding year shall not exceed in the aggregate *four* times the number of days constituting the worker's normal working week;

(b) the holiday season may be varied in any year by agreement between the employer and the worker if they jointly notify the Wages Council of such agreement and any reference to a holiday season in this Schedule shall be construed accordingly.

Paragraph 4.

(1) Subject to the provisions of this paragraph, an annual holiday shall be allowed on consecutive working days, being days on which the worker is normally called upon to work for the employer.

(2) (a) Where the number of days of annual holiday for which a worker has qualified exceeds the number of days constituting his normal working week, but does not exceed twice that number, the holiday may be allowed in two periods of consecutive working days; so, however, that when a holiday is so allowed, one of the periods shall consist of a number of such days not less than the number of days 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 holiday may be allowed as follows:—

(i) as to two periods of consecutive working days, each such period not being less than the period constituting the worker's normal working week, during the holiday season; and

(ii) as to any additional days referred to in sub-paragraph (2) of paragraph 3, on working days to be fixed by the employer either during the holiday season or within the period ending on 30th March next following the holiday season.

(3) For the purposes of this paragraph, days of annual holiday shall be treated as consecutive notwithstanding that a day of holiday allowed to a worker under Part II or a day on which he does not normally work for the employer intervenes.

(4) Where a day of holiday allowed to a worker under Part II immediately precedes a period of annual holiday or occurs during such a period and the total number of days of annual holiday required to be allowed in the period under the foregoing provisions of this paragraph, together with any such day of holiday allowed under Part II, exceeds the number of days constituting the worker's normal working week then, notwithstanding the foregoing provisions of this paragraph, the duration of that period of annual holiday may be reduced by one day and in such a case one day of annual holiday may be allowed on any working day (not being the worker's weekly short day) in the holiday season.

Paragraph 5.

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 a 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) Subject to the provisions of this paragraph, for each day of customary holiday to which a worker is entitled under Part II 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 day of holiday and he had been employed on work to which statutory minimum remuneration applies for the time usually worked by him on that day of the week.

Provided that payment of the said holiday remuneration is subject to the condition that the worker (unless excused by the employer or absent by reason of the proved illness of the worker) presents himself for employment at the usual starting hour on the first working day on which work was available to him following the customary holiday and works thereon for the number of hours normally worked by him for the employer on that day of the week.

(2) 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.

(3) Holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid on the pay day on which the wages for the pay week including that holiday in lieu are paid. 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 such holiday in lieu of a customary holiday, and in such case the condition contained in the proviso to sub-paragraph (1) shall not apply.

B — ANNUAL HOLIDAYS

Paragraph 7.

(1) Subject to the provisions of paragraph 8, a worker 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, or not later than the first working day after its termination, one day's holiday pay in respect of each day thereof.

(2) Where under the provisions of paragraph 4 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) in respect of employment during 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 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 preceding 30th March, a sum equal to the holiday remuneration which would be payable for any days of annual holiday for which he has qualified by virtue of that employment (except days of annual holiday which he has been allowed before leaving the employment) if they were allowed at the time of leaving the employment; and

(2) in respect of any employment since the preceding 30th 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 entitling a worker to an annual holiday or to 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—

(i) he has worked for the employer for not less than twelve hours and has performed some work to which statutory minimum remuneration applies; or

(ii) he has been absent throughout the week solely 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 seven in the aggregate in the period of twelve months immediately preceding the commencement of the holiday season; or

(iii) he has been suspended throughout the week owing to shortage of work in the period of twelve months last mentioned; or

(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), 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.

Paragraph 11.

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 (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—

"Normal working week" means a week represented by the number of days and of hours worked by the worker for the employer in the majority of weeks 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 employment, in the twelve months immediately preceding the date of 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 worker's weekly remuneration, that is to say,

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

and in this definition "weekly remuneration" means either:—

(1) the statutory minimum remuneration which the worker would be entitled to receive from his employer for a week's work immediately prior to the holiday, if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime);

or (2) the average weekly rate of earnings in the period of 13 weeks immediately preceding the holiday, whichever is the greater.

"Statutory minimum remuneration" means statutory minimum remuneration (other than holiday remuneration) fixed by a wages regulation order made by the Department to give effect to proposals submitted to it by the Wages Council.

"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 22nd April 1980, 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 Paper Box Wages Regulation (Holidays) Order (Northern Ireland) 1975 (Order N.I.B. (103)).

Order N.I.B. (103) is revoked.

New provisions in the Schedule are printed in italics.