1980 No. 241

WAGES COUNCILS

Dressmaking and Women's Light Clothing Wages Regulation (Holidays) Order (Northern Ireland) 1980

Made	*3rd July 1980*
Coming into operation . . .	*15th July 1980*

The Department of Manpower Services, in exercise of the powers conferred 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 Dressmaking and Women's Light Clothing Wages Council (Northern Ireland).

Citation

1. This Order may be cited as the Dressmaking and Women's Light Clothing 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 Dressmaking and Women's Light Clothing Wages Regulation (Holidays) Order (Northern Ireland) 1974(**c**), the Dressmaking and Women's Light Clothing Wages Regulation (Amendment) (No. 1) Order (Northern Ireland) 1978(**d**) and the Dressmaking and Women's Light Clothing Wages Regulation (Amendment) (No. 2) Order (Northern Ireland) 1978(**e**) shall cease to have effect.

Interpretation

3. In this Order the expression "the specified date" means 15th July 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 3rd July 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. 1974 No. 203 (I, p. 895)
(**d**) S.R. 1978 No. 241 (II, p. 840)
(**e**) S.R. 1978 No. 242 (II, p. 845)

[N.I.W.D. (183)]

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 Dressmaking and Women's Light Clothing Wages Regulation (Holidays) Order (Northern Ireland) 1974 (Order N.I.W.D. (153)) as amended by the Dressmaking and Women's Light Clothing Wages Regulation (Amendment) (No. 1) Order (Northern Ireland) 1978 (Order N.I.W.D. (168)) and the Dressmaking and Women's Light Clothing Wages Regulation (Amendment) (No. 2) Order (Northern Ireland) 1978 (Order N.I.W.D. (169)).

PART I

APPLICATION

Paragraph 1.

This Schedule applies to every worker (other than an outworker as defined in paragraph 12) 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 eight 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 customary holiday.

(2) The said customary holidays are:—

(a) Christmas Day (or, if Christmas Day falls on a Sunday, such other weekday as may be appointed by national proclamation, or, if none is so appointed, the next following Tuesday), Boxing Day, New Year's Day, Easter Monday, Easter Tuesday and three other days (being days on which the worker normally works but not being weekly short 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

(b) a day substituted by the employer for any one of the said days, 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 a young person such a requirement would be unlawful) require a worker who is otherwise entitled to any customary holiday under the foregoing provisions 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 (hereinafter referred to as a "holiday in lieu of a customary holiday") on a weekday within the period of four weeks next ensuing.

(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, in accordance with paragraph 6.

PART III

ANNUAL HOLIDAYS

Paragraph 3.

(1) In addition to the customary holidays specified in Part II, an employer shall, between *6th April and 30th September 1980* and in each succeeding year, between 6th April 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 Schedule applies who was employed by him during the 12 months immediately preceding the commencement of the holiday season for any of the periods of employment (calculated in accordance with the provisions of paragraph 10) specified below, and the duration of the annual holiday shall be related to the period of employment during those 12 months as follows:—

Period of employment	*Duration of annual holiday*
At least 48 weeks	*18 days*
At least 46 weeks	*17 days*
At least 44 weeks	*16 days*
At least 42 weeks	*15 days*
At least 40 weeks	*14 days*
At least 38 weeks	*13 days*
At least 36 weeks	*12 days*
At least 33 weeks	*11 days*
At least 30 weeks	*10 days*
At least 27 weeks	*9 days*
At least 24 weeks	*8 days*
At least 21 weeks	*7 days*
At least 18 weeks	*6 days*
At least 15 weeks	*5 days*
At least 12 weeks	*4 days*
At least 9 weeks	*3 days*
At least 6 weeks	*2 days*
At least 3 weeks	*1 day*

(2) Notwithstanding the provisions of (1) the number of days of annual holiday to which a worker shall be entitled in any holiday season shall not exceed in the aggregate 3 times the period constituting the worker's normal working week *plus three days*.

Paragraph 4.

Annual holidays shall be allowed on consecutive working days, being days on which the worker is normally required to work, and days of annual holiday shall be treated as consecutive notwithstanding that a customary holiday on which the worker is not required to work 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 number of days constituting his normal working week, but does not exceed twice that number, the annual holiday may be allowed in two periods of consecutive working days if one of the periods is 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 annual holiday may be allowed as follows—

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

(ii) as to any additional days, on working days which need not be consecutive, to be fixed by the employer, either during the holiday season or within the period ending on 8th January immediately following 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 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 customary holiday (including a customary holiday falling on a Saturday) to which a worker is entitled under Part II he shall be paid by the employer as holiday remuneration whichever of the following amounts is the greater:—

(a) one-fifth of the average weekly earnings of the worker during the twelve months ended on 5th April immediately preceding the customary holiday, such average weekly earnings to be determined by dividing the total remuneration (including holiday remuneration) paid to him by the employer during the said period by the number of weeks of employment with the employer during that period.

Provided that, in respect of any day of customary holiday during the period 6th April 1980 to 5th April 1981, the amount calculated as at (a) above shall be increased by 12½% or, where a 12½% increase in remuneration has been paid by the employer from the first pay-day in January 1980, the amount calculated as at (a) above shall instead be increased by 9·375%, or

(b) 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 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.

(2) Notwithstanding the provisions of sub-paragraph (1) payment of the said holiday remuneration shall be subject to the condition that the worker presents himself for employment at the usual starting hour both on the working day immediately preceding the customary holiday and on the first working day following the customary holiday or, if he fails to do so, such failure is by reason of proved illness of the worker or with the consent of the employer.

(3) 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 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.

(4) 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 which includes the customary holiday are paid.

(5) 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 week which includes 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 and in that case the conditions specified in sub-paragraph (2) shall not apply.

B—ANNUAL HOLIDAYS

Paragraph 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 as holiday remuneration whichever of the following amounts is the greater:—

(a) an amount equal to *eighteen two-hundred-and-sixtieths* of the total remuneration (including holiday remuneration) paid by the employer to the worker during the twelve months ended on 5th April immediately preceding the annual holiday.

Provided that, in respect of any annual holidays due during the period 6th April 1980 to 5th April 1981, the amount calculated as at (a) above shall be increased by 12½% or, where a 12½% increase in remuneration has been paid by the employer from the first pay-day in January 1980, the amount calculated as at (a) above shall instead be increased by 9·375%, or

(b) one day's holiday pay (as defined in paragraph 12) in respect of each day thereof.

(2) Where under the provisions of paragraph 4 an annual holiday is allowed in two or more separate periods, the holiday remuneration shall be apportioned accordingly.

Paragraph 8.

Where, in accordance with paragraph 9 any accrued holiday remuneration has been paid by the employer to the worker 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 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.

Paragraph 9.

(1) If a worker ceases to be employed by an employer before being allowed or entitled to be allowed an annual holiday, the employer shall immediately on the termination of the employment pay to the worker accrued holiday remuneration in accordance with the provisions of sub-paragraph (2).

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 sub-paragraph (2), 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 which he has been allowed.

(2) Holiday remuneration shall accrue to a worker during the period of twelve months commencing on *6th April 1980* and thereafter in each successive period of twelve months commencing on 6th April and such holiday remuneration shall accrue in accordance with the provisions of the following table:—

TABLE OF ACCRUED HOLIDAY REMUNERATION

Col 1	Col. 2	Col. 3
Period of employment	Accrued holiday remuneration	Accrued holiday remuneration for a full normal working week
At least 48 weeks	*Three and three-fifths times 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 as a time worker at the appropriate statutory minimum remuneration for time work fixed by a wages regulation order in respect of the worker for work to which that order applies and at the same rate for work (if any) to which that order does not apply.
At least 46 weeks	*Three and two-fifths times the amount in Col. 3.*	
At least 44 weeks	*Three and one-fifth times the amount in Col. 3.*	
At least 42 weeks	*Three times the amount in Col. 3.*	
At least 40 weeks	*Two and four-fifths times the amount in Col. 3.*	
At least 38 weeks	*Two and three-fifths times the amount in Col. 3.*	
At least 36 weeks	*Two and two-fifths times the amount in Col. 3.*	
At least 33 weeks	*Two and one-fifth times the amount in Col. 3.*	
At least 30 weeks	*Twice the amount in Col. 3.*	
At least 27 weeks	*One and four-fifths times the amount in Col. 3.*	
At least 24 weeks	*One and three-fifths times the amount in Col. 3.*	
At least 21 weeks	*One and two-fifths times the amount in Col. 3.*	
At least 18 weeks	*One and one-fifth times the amount in Col. 3.*	
At least 15 weeks	*The amount in Col. 3.*	
At least 12 weeks	*Four-fifths of the amount in Col. 3.*	
At least 9 weeks	*Three-fifths of the amount in Col. 3.*	
At least 6 weeks	*Two-fifths of the amount in Col. 3.*	
At least 3 weeks	*One-fifth of the amount in Col. 3.*	

(3) Any accrued holiday remuneration payable under the provisions of this paragraph shall be reduced by the amount of accrued holiday remuneration already paid by the employer to the worker in pursuance of this Order in respect of the same period of employment or part thereof.

PART V

GENERAL

Paragraph 10.

For the purpose of calculating any period of employment qualifying a worker for an annual holiday or for any accrued holiday remuneration, a 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 *sixteen* 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 but not exceeding four weeks 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 but not in excess of six weeks in the aggregate in the period of twelve 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), a worker who is absent on such a holiday shall be treated as having 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.

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—

"outworker" means a worker who works at home or any other place not under the control or management of the employer;

"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 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 to which statutory minimum remuneration applies;

"statutory minimum remuneration" means 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 Dressmaking and Women's Light Clothing Wages Council (Northern Ireland);

"week" means "pay-week";

"one day's holiday pay" means the appropriate proportion of the remuneration which the worker would be entitled to receive from his employer at the date of the annual holiday, for one week's work if working his normal working week and the number of daily hours normally worked by him (exclusive of overtime), and if paid as a time worker at the appropriate rate of statutory minimum remuneration for work to which statutory minimum remuneration applies and at the same rate for any work to which such remuneration does not apply, and in this definition "appropriate proportion", means—

where the worker's normal working week is five days —one-fifth

where the worker's normal working week is four days or less —one-quarter.

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 15th July 1980, sets out the holidays which an employer is required to allow to workers, and the remuneration payable for these holidays in substitution for the holidays and holiday remuneration fixed by the Dressmaking and Women's Light Clothing Wages Regulation (Holidays) Order (Northern Ireland) 1974 (Order N.I.W.D. (153)) as amended by the Dressmaking and Women's Light Clothing Wages Regulation (Amendment) (No. 1) Order (Northern Ireland) 1978 (Order N.I.W.D. (168)) and the Dressmaking and Women's Light Clothing Wages Regulation (Amendment) (No. 2) Order (Northern Ireland) 1978 (Order N.I.W.D. (169)).

Orders N.I.W.D. (153), N.I.W.D. (168) and N.I.W.D. (169) are revoked.

New provisions in the Schedule are printed in italics.