1980 No. 9

WAGES COUNCILS

Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods Wages Regulation (Holidays) Order (Northern Ireland) 1980

Made . . . . . *2nd January 1980*

Coming into operation . . . *15th January 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**), hereby makes the following Order to give effect to wages regulation proposals received from the Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods Wages Council (Northern Ireland).

Citation

1. This Order may be cited as the Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods 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 Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods Wages Regulation (Holidays) Order (Northern Ireland) 1970(**c**) shall cease to have effect.

Intepretation

3. In this Order the expression "the specified date" means 15th January 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 on 2nd January 1980.

(L.S.)

J. S. Crozier
Senior 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. & O. (N.I.) 1970 No. 107 (p. 522)

[N.I.H.H.G. (218)]

SCHEDULE

Holidays and Holiday Remuneration

This Schedule sets out the holidays and holiday remuneration payable in substitution for the holidays and holiday remuneration fixed by the Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods Wages Regulation (Holidays) Order (Northern Ireland) 1970 (Order N.I.H.H.G. (192)) as amended by the Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods Wages Regulation (Amendment) Order (Northern Ireland) 1976(**d**) (Order N.I.H.H.G. (208)).

PART I

APPLICATION

Paragraph 1.

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

(2) An out-worker is a worker who works in his 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 (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 for the whole or part of that period and (unless excused by the employer or absent by reason of the proved illness of, or accident to, the worker) has worked for the employer on the last working day on which work was available to him within the period of six week-days immediately preceding the customary holiday.

(2) The said customary holidays are:—

Christmas Day (or, if Christmas Day falls on a Sunday, such other week-day 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, May Day, and two other days (being days of the week on which the worker normally works) in the course of a calendar year to be allowed at a time agreed between the employer and his workers (or a majority thereof) or their representative and notified to the workers not less than two calendar months before the date proposed for the customary holiday. In default of such agreement the customary holiday shall be allowed at a time fixed by the Wages Council on application in writing thereto by any of the parties concerned such application to be made not less than one calendar month before the date proposed for the customary holiday.

(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 to work thereon and, in lieu of any 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.

(**d**) S.R. 1976 No. 117 (I, p. 482)

(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) Subject to the provisions of paragraph 4, in addition to the holidays specified in Part II, an employer shall, between 1st June *1979 and 31st May 1980* and in each succeeding year between 1st June and 31st May (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 specified below, and the duration of the holiday shall be related to his period of employment during that 12 months as follows:—

(a) Workers under 18 years of age when they enter the employment of the employer and under 19 years of age at the commencement of their first annual holiday—

Where the worker's normal working week is one of 5 days or less

Period of employment	Duration of annual holiday in the period commencing 1st June	
	1979	1980
At least 24 weeks	*18 days*	*20 days*
„ 20 „	*15* „	*17* „
„ 16 „	*12* „	*13* „
„ 12 „	*9* „	*10* „
„ 8 „	*6* „	*7* „
„ 4 „	*3* „	*3* „

Provided that this provision applies only to a worker who is in his first employment since leaving school and in respect of his first annual holiday allowed under this Schedule or under Order N.I.H.H.G. (192).

(b) All other workers—

Where the worker's normal working week is one of 5 days or less.

Period of employment	Duration of annual holiday in the period commencing 1st June	
	1979	1980
At least 48 weeks	*18 days*	*20 days*
„ 43 „	*16* „	*18* „
„ 38 „	*14* „	*16* „
„ 33 „	*12* „	*14* „
„ 28 „	*11* „	*12* „
„ 24 „	*9* „	*10* „
„ 20 „	*8* „	*8* „
„ 16 „	*6* „	*7* „
„ 12 „	*5* „	*5* „
„ 8 „	*3* „	*3* „
„ 4 „	*2* „	*2* „

(2) Notwithstanding the provisions of sub-paragraph (1) the number of days of annual holiday which an employer is required to allow to a worker shall not exceed in the aggregate—

(a) in the period commencing 1st June 1979 and ending 31st May 1980, three times the number of days constituting the workers normal working week, *plus three days;*

(b) in the period commencing 1st June 1980 and ending 31st May 1981, *four* times the number of days constituting the worker's normal working week.

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 holidays 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 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 if one of such periods is not less than the period constituting the worker's normal working week, or failing such agreement, on application to and with the consent of the Council.

(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 during the holiday season, or, failing such agreement, on application to and with the consent of the Council.

Any such application for the consent of the Council must be made between the 1st day of March immediately preceding the holiday season and the 31st day of May in the same year.

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 must be given at least 28 days before the first day of the annual holiday or, where under the provisions of paragraph 4 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 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 holiday remuneration equal to the sum which would be payable to him by his employer if that day were not a day of customary holiday and he had worked thereon the number of hours normally worked by him on that day of the week and been paid—

(a) in the case of a time worker, at the rate of wages (being at least the appropriate general minimum time rate) paid to him by the employer immediately prior to the customary holiday;

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

Provided that payment of the said holiday remuneration shall be subject to the condition that the worker works for the employer on the first two working days on which work is available to him following the customary holiday for the number of hours normally worked by him on each of those days of the week or, if he fails to do so, failure is because of the proved illness of, or accident to, the worker or is with the consent of, or on the instruction of, the employer.

(2) Where a customary holiday falls on a Saturday and the worker does not normally work for the employer on that day of the week he shall be paid, in respect thereof, by way of holiday remuneration, an amount equal to the appropriate remuneration to which he would have been entitled under (1)(a) or (b) if the day had not been a customary holiday and he had worked for one-fifth of the number of hours he normally works in a week on work for which statutory minimum remuneration is payable.

(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 second working day following the customary holiday are paid.

(4) 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 the second working day following that holiday in lieu of a customary holiday 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 a holiday in lieu of a customary holiday to which he is entitled, and in that case the condition specified in sub-paragraph (1) shall not apply.

B—ANNUAL HOLIDAYS

Paragraph 7.

(1) Subject to the provisions of paragraphs 8 and 9, a worker entitled to be allowed an annual holiday under this Schedule shall be paid by the employer in respect thereof on the last pay day preceding such annual holiday—

in relation to the period commencing 1st June 1979 and ending 31st May 1980 an amount equal to *7·4* per cent;

in relation to the period commencing 1st June 1980 and ending 31st May 1981 and to each succeeding period commencing 1st June an amount equal to *8·3* per cent of the total remuneration which the worker was entitled to receive from his employer for work done in the period of twelve months immediately preceding the commencement of the holiday season in which the holiday is to be allowed and including holiday remuneration which the worker was entitled to receive from his employer in respect of customary holidays during the same period, not being remuneration taken into account in connection with any previous payment of annual holiday remuneration.

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

Paragraph 8.

Where, in accordance with paragraph 9 or with Order N.I.H.H.G. (192) 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 or that Order, 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.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

Paragraph 9.

(1) If a worker ceases to be employed after the provisions of this Schedule become effective and 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 the next following sub-paragraph.

Provided that where a worker ceases to be employed after being allowed a part of the annual holiday for which he has qualified, but before being allowed the rest of that annual holiday, the accrued holiday remuneration payable to him on termination of his employment shall be reduced by the amount of holiday remuneration received by him in respect of the part of the annual holiday he has been allowed.

(2) Holiday remuneration shall accrue to a worker during the period of twelve months commencing on 1st June 1979 and thereafter in each succeeding period of twelve months commencing on 1st June and such accrued holiday remuneration shall be calculated as follows:

(a) in respect of any employment in the twelve months ended on 31st May immediately preceding the termination of his employment, 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 before leaving the employment; and

(b) in respect of any employment between such 31st May and the date of termination of his employment, 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.

(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 or of Order N.I.H.H.G. (192), in respect of the same period of employment or part thereof.

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, 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 three days and has performed some work to which statutory minimum remuneration applies

provided that absence from work on the remaining days of the week is by permission of the employer; or

(ii) he has been absent throughout the week by reason of proved illness of, or accident to, the worker but not exceeding four weeks in the aggregate in the period of twelve months immediately preceding the commencement of the holiday season

provided that the worker returns to the employment of the employer on the termination of his period of absence through proved illness or accident; or

(iii) he has been suspended throughout the week owing to shortage of work but not exceeding four weeks in the aggregate in the period of twelve months immediately preceding the commencement of the holiday season

provided that the worker returns to the employment of the employer on the termination of his period of suspension; or

(b) as if he were employed on any day of holiday allowed under the provisions of this Schedule.

Paragraph 11.

Where any day of holiday allowed to any worker 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.

The following expressions have the meanings hereby respectively assigned to them, that is to say:—

"NORMAL WORKING WEEK" means the number of days in 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.

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.

"STATUTORY MINIMUM REMUNERATION" means statutory minimum remuneration (other than holiday remuneration) which has been fixed by a wages regulation order made by the Department pursuant to proposals submitted to it by the Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods 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 15th January 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 Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods Wages Regulation (Holidays) Order (Northern Ireland) 1970 (Order N.I.H.H.G. (192)) as amended by the Linen and Cotton Handkerchief and Household Goods and Linen Piece Goods Wages Regulation (Amendment) Order (Northern Ireland) 1976 (Order N.I.H.H.G. (208)).

Order N.I.H.H.G. (192) is revoked.

New provisions in the Schedule are printed in italics.