1967. No. 213 [NC]

WAGES COUNCILS

Wages Regulation (Boot and Shoe Repairing)

ORDER, DATED 14TH AUGUST 1967, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE WAGES COUNCILS ACT (NORTHERN IRELAND) 1945.

The Ministry of Health and Social 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 Boot and Shoe Repairing Wages Council (Northern Ireland):—

Citation

1. This Order may be cited as the Boot and Shoe Repairing Wages Regulation (Holidays) Order (Northern Ireland) 1967.

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 Boot and Shoe Repairing Wages Regulation (Holidays) Order (Northern Ireland) 1960(**b**) shall cease to have effect.

Interpretation

3. In this Order the expression "the specified date" means the 22nd day of August 1967, 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 Ministry of Health and Social Services for Northern Ireland this 14th day of August 1967.

(L.S.)

W. Slinger,
Assistant Secretary.

(a) 1945. c. 21.

(b) S.R. & O. (N.I.) 1960, No. 37.

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 Boot and Shoe Repairing Wages Regulation (Holidays) Order (Northern Ireland) 1960 (hereinafter referred to as "Order N.I.B.S. (83)"):—

Holidays and Holiday Remuneration

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 in his employment 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 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, Easter Monday and Easter Tuesday, and two other days (being days of the week on which the worker normally works) 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 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 (hereafter referred to as a "holiday in lieu of a customary holiday") on a weekday, being a day on which he would normally work, 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.

In addition to the customary holidays specified in Part II, an employer shall, between the date on which the provisions of this Schedule become operative and 30th November *1967*, and in each succeeding year between 1st April and 30th November (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 12 months immediately preceding the commencement of the holiday season for any one of the periods of employment specified below, and the duration of the annual holiday shall be related to his period of employment during that 12 months as follows:—

Period of employment	Duration of annual holiday			
	Where the worker's normal working week is:—			
	Six days	Five days	Four days	Three days or less
At least 48 weeks	*14 days*	*12 days*	*10 days*	*8 days*
„ 44 „	11 days	9 days	7 days	5 days
„ 40 „	10 „	8 „	6 „	5 „
„ 36 „	9 „	7 „	6 „	4 „
„ 32 „	8 „	6 „	5 „	4 „
„ 28 „	7 „	5 „	4 „	3 „
„ 24 „	6 „	5 „	4 „	3 „
„ 20 „	5 „	4 „	3 „	2 „
„ 16 „	4 „	3 „	2 „	2 „
„ 12 „	3 „	2 „	2 „	1 day
„ 8 „	2 „	2 „	1 day	1 „
„ 4 „	1 day	1 day	1 „	—

Provided that the number of days of annual holiday which an employer is required to allow to a worker in any holiday season shall not exceed in the aggregate twice the number of days constituting the worker's normal working week.

Provided also that the duration of the worker's annual holiday in the holiday season ending on 30th November 1967 shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order N.I.B.S. (83) between 1st April 1967 and the date on which the provisions of this Schedule become operative.

Paragraph 4.

(1) Annual holidays shall be allowed on consecutive working days and days of holiday shall be treated as consecutive notwithstanding that a Sunday or some other holiday intervenes.

(2) (a) Where the number of days of annual holiday for which a worker has qualified exceeds the number of days constituting the worker's normal working week *but does not exceed twice that number*, the said annual holiday may be allowed in two or three separate periods of such consecutive working days, provided that one of the periods is of not less duration than the number of days constituting the worker's normal working week and that the remaining days of annual holiday are allowed on whole days upon which the worker is normally employed by the employer.

(*b*) *Where the number of days of annual holiday for which a worker has qualified exceeds twice the number of days constituting the worker's normal working week the annual holiday may be allowed as follows:—*

(*i*) *as to the period comprising twice the number of days constituting the worker's normal working week, in accordance with sub-paragraph (a); and*

(*ii*) *as to any additional days, on working days which need not be consecutive, to be fixed by agreement between the employer and the worker or his representative, either during the holiday season or during the period 1st December and 31st March next following that holiday season.*

Paragraph 5.

An employer shall give to a worker notice of the commencing date and duration 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, an annual holiday is allowed in more than one period, before each separate period and 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) 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 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 works throughout the last working day on which work was available to him immediately preceding the holiday and throughout the first day on which work is available to him following the holiday, or, if he fails to do so, failure is due to absence with the consent of the employer or to the proved illness of or accident to the worker.

(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 a holiday in lieu of a customary holiday to which he is entitled and in that case the condition regarding work on the first working day following the customary holiday set out in sub-paragraph (1) 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 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) 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 (or under the provisions of Order N.I.B.S. (83)) 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 or of Order N.I.B.S. (83).

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

Paragraph 9.

Where 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 (hereafter called "the termination date"), pay to the worker accrued holiday remuneration, that is to say:—

(1) in respect of any period of employment occurring before 1st 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 paragraph 7 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 April aforesaid in respect of that period of employment and,

(2) in respect of any period of employment since the 31st March immediately preceding the termination date, an amount equal to one day's holiday pay (as defined in paragraph 12) multiplied by the number of days of annual holiday to which the worker would have been entitled under the provisions of paragraph 3 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 accordance with this paragraph or in accordance with the provisions of Order N.I.B.S. (83) in respect of that period

PART V

GENERAL

Paragraph 10.

For the purposes of calculating any period of employment qualifying 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 twenty-four hours and has performed some work for which statutory minimum remuneration is payable; or

(ii) he has been absent throughout the week by reason of the proved illness of or accident to the worker (provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed 4 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 4 in the aggregate in the period of 12 months immediately preceding the commencement of the holiday season);

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 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 is 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 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, 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 six days	..	one-sixth
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 annual 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 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 for the same employer to which such remuneration does not apply.

"Statutory Minimum Remuneration" means minimum remuneration (other than holiday remuneration) fixed by a wages regulation order made by the Ministry to give effect to proposals submitted to it by the Boot and Shoe Repairing 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 22nd August 1967, 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 Boot and Shoe Repairing Wages Regulation (Holidays) Order (Northern Ireland) 1960, (Order N.I.B.S. (83)), which is revoked.

New provisions in the Schedule are printed in italics.