1970 No. 120 **[NC]**

WAGES COUNCILS

Wages Regulation (Brush and Broom)

ORDER, DATED 29TH MAY 1970, 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 Brush and Broom Wages Council (Northern Ireland):—

Citation

1. This Order may be cited as the Brush and Broom Wages Regulation (Holidays) Order (Northern Ireland) 1970.

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 Brush and Broom Wages Regulation (Holidays) Order (Northern Ireland) 1969(b) shall cease to have effect.

Interpretation

3. In this Order the expression "the specified date" means the 16th day of June 1970, 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 29th day of May 1970.

(L.S.)

W. G. H. Quigley,
Senior Assistant Secretary.

(a) 1945, c. 21. (b) S.R. & O. (N.I.) 1969, No. 110.

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 Brush and Broom Wages Regulation (Holidays) Order (Northern Ireland) 1969 (Order N.I.B.B. 101)):—

PART I

APPLICATION

Paragraph 1.

This Schedule applies to every worker (other than an outworker) 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 sub-paragraph (2) provided that the worker was in his employment for a period of not less than eight weeks immediately preceding the customary holiday and 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 the worker) 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 (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, Easter Tuesday and two other days (being days 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) in the case of each of the said days a day, substituted therefor by agreement between the employer and the worker, 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 employer shall allow to the worker a day's holiday (hereinafter referred to as a "holiday in lieu of a customary holiday") on a weekday on which he would normally work for the employer within the period of two calendar months 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 rate of statutory minimum remuneration 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 8.

PART III

ANNUAL HOLIDAY AND ADDITIONAL ANNUAL HOLIDAY

ANNUAL HOLIDAYS

Paragraph 3.

Subject to the provisions of paragraph 4, in addition to the customary holidays specified in Part II, an employer shall, between the 1st June and the 30th September *1970,* and in each succeeding year between the 1st June and the 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 has been employed by him during the twelve months ended on the 5th April immediately preceding the commencement of the holiday season for any of the periods of employment (calculated in accordance with the provisions of paragraph 13) set out in the table below, and the duration of the annual holiday in the case of each such worker shall be related to his period of employment during that twelve months as follows:—

Period of employment	Duration of annual holiday for workers with a normal working week of—			
	6 days	5 days	4 days	3 days
At least 48 weeks	12 days	10 days	8 days	6 days
„ „ 44 „	11 „	9 „	7 „	5 „
„ „ 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 „	1 day	1 day	1 „

Paragraph 4.

(1) An annual holiday shall be allowed on consecutive working days, being days upon which the worker is normally called upon to work for the employer, and days of annual holiday shall be treated as consecutive notwithstanding that a day of customary holiday allowed to a worker under Part II or a day upon which he does not normally work for the employer intervenes.

(2) Where the number of days of annual holiday for which a worker has qualified exceeds the number of days constituting his normal working week, the holiday may, by agreement in writing made between the employer and the worker, 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.

(3) Subject to the provisions of sub-paragraph (4), where a day of customary 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 customary 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 shall be allowed on any working day in the holiday season, or with the consent of the worker on any working day prior to the commencement of the next holiday season.

(4) Any day of annual holiday or additional annual holiday under this Schedule may be allowed on a day on which the worker is entitled to a day of holiday or to a half-holiday under any enactment other than the Wages Councils Act (Northern Ireland) 1945, except that a day of annual holiday allowed under sub-paragraph (3) shall not be allowed on the worker's weekly short day.

ADDITIONAL ANNUAL HOLIDAY

Paragraph 5.

Subject to the provisions of this paragraph, in addition to the holidays specified in paragraphs 2 and 3 an employer shall, in each year commencing on 1st June, allow a holiday (hereinafter referred to as an "additional annual holiday") to every worker in his employment to whom this Schedule applies who has been employed by him at the preceding 5th April for a continuous period of *one* year or more (calculated in accordance with paragraph 13) and the duration of the additional annual holiday shall be *3 days*.

Paragraph 6.

Where a worker becomes entitled to any days of additional annual holiday in accordance with the provisions of paragraph 5 those days of additional annual holiday shall be allowed by the employer, by agreement with the worker, on a day or days on which the worker is normally called upon to work for the employer, at any time (or times) during the period of 12 months commencing on 1st June immediately following 5th April upon which the worker becomes entitled as aforesaid.

Paragraph 7.

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 and the date or dates of his additional 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 before the said date or dates of his additional holiday. 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 AND HOLIDAYS IN LIEU OF CUSTOMARY HOLIDAYS

Paragraph 8.

(1) Subject to the provisions of this paragraph, for each day of customary holiday which a worker is allowed under Part II he shall be paid by the employer as holiday remuneration whichever of the following sums is the greater, that is to say either—

(a) In the case of a worker whose normal working week—

(i) exceeds five days, two-elevenths

(ii) is five days, one-fifth

(iii) is four days, one-quarter

(iv) is three days, one-third

of the average weekly earnings of the worker during the twelve months ended on 5th April immediately preceding the holiday such average weekly earnings to be determined by dividing the total remuneration (as defined in paragraph 14) paid to him by the employer during that period, by the number of weeks of employment with the employer during the said period;

or

(b) a sum equal to the appropriate statutory minimum remuneration to which the worker would have been entitled if the day had not been a day of holiday and he had been employed on work entitling him to statutory minimum remuneration for the time normally 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 proved illness of the worker) works throughout his normal working hours on the first day on which work is available to him following the holiday.

(2) Holiday remuneration in respect of any customary holiday shall be paid by the employer to the worker not later than on the pay day on which the wages for the pay week including the first working day following the customary holiday are paid.

(3) Holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid not later than on the pay day on which the wages for the pay week including the first working day following the 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 proviso to sub-paragraph (1) shall not apply.

B—Annual Holidays

Paragraph 9.

(1) Subject to the provisions of paragraph 11, a worker qualified to be allowed an annual holiday shall be paid as holiday remuneration by his employer in respect thereof, not later than on the last pay day preceding such annual holiday, whichever of the following sums is the greater, that is to say either—

(a) a sum equal to two fifty-seconds of the total remuneration (as defined in paragraph 14), paid by the employer to the worker during the twelve months ended on the 5th April immediately preceding the holiday; or

(b) one day's holiday pay (as defined in paragraph 14) 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.

C—Additional Annual Holidays

Paragraph 10.

A worker entitled to be allowed an additional annual holiday under this Schedule shall be paid by his employer in respect thereof on the last day preceding such additional annual holiday as follows:—

Where the worker's normal working week is	6 days	*three-elevenths*
" "	5 days	*three-tenths*
" "	4 days	*three-eighths*
" "	3 days	*one-half*

of the amount he would be entitled to receive at the date of the holiday for an annual holiday of two normal working weeks determined in accordance with paragraph 9.

(2) Where an employer allows the days of additional annual holiday otherwise than on consecutive days the remuneration shall be apportioned accordingly.

Paragraph 11.

Where any accrued holiday remuneration has been paid by the employer to the worker (in accordance with the provisions of paragraph 12 or under Order N.I.B.B. (101)) in respect of employment during any of the periods referred to in that paragraph or that Order respectively, 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 12.

(1) Subject to the provisions of this paragraph 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:—

(a) in respect of employment in the twelve months up to and including the immediately preceding 5th April a sum equal to the holiday remuneration for any days of holiday for which he has qualified;

(b) in respect of employment up to and including the immediately preceding 5th April a sum equal to the holiday remuneration for any days of additional annual holiday for which he has qualified; and

(c) in respect of any employment since the said 5th April for a period of at least 8 weeks' duration (calculated in accordance with paragraph 13) whichever of the following sums is the greater, that is to say either—

(i) a sum equal to two fifty-seconds of the total remuneration (as defined in paragraph 14) paid by the employer to the worker since that date; or,

(ii) a sum equal to the holiday remuneration for any days of annual holiday 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 and if paid at the rate of one day's holiday pay (as defined in paragraph 14) in respect of each day thereof.

(2) Accrued holiday remuneration is not payable in respect of any days of annual holiday which the worker has been allowed or become entitled to be allowed under this Schedule or under Order N.I.B.B. (101).

(3) Subject to the provisions of sub-paragraph (4), where a worker has been allowed in a holiday season part only of the annual holiday for which he has qualified under this Schedule or under Order N.I.B.B. (101) and his employment is terminated before he becomes entitled to the rest of that holiday, the accrued holiday remuneration payable shall be the appropriate amount under the foregoing provisions less the amount received by the worker in respect of that part of the holiday which he has been allowed.

(4) Any accrued holiday remuneration payable under the provisions of this paragraph shall be reduced by the amount of any accrued holiday remuneration already paid by the employer to the worker in pursuance of this Schedule or of Order N.I.B.B. (101) in respect of the same period of employment or part thereof.

PART V

GENERAL

Paragraph 13.

For the purposes of calculating any period of employment qualifying a worker for an annual holiday, an additional annual holiday, or for any accrued holiday remuneration, the worker shall be treated—

(1) as if he were employed for a week in respect of any week in which—

(a) he has worked for the employer on not less than three days and has performed some work for which statutory minimum remuneration is payable;

(b) he has been absent throughout the week or he has worked for the employer on less than 3 days, by reason, in either case, 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 reasons shall not exceed four in the aggregate in the period of twelve months ended on 5th April immediately preceding the commencement of the holiday season; and

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order N.I.B.B. (101), and for the purpose of the provisions of sub-paragraph (1), a worker who is absent on such a holiday shall be treated as having worked thereon for the employer on work for which statutory minimum remuneration is payable.

Paragraph 14.

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

"APPROPRIATE RATE OF STATUTORY MINIMUM REMUNERATION" means, where the worker is usually employed as:—

(1) a time worker	the general minimum time rate applicable to the worker.
(2) a piece worker and is a female worker under 21 years of age	the general minimum time rate which would apply if the worker were employed as a time worker.
(3) a piece worker and is not a worker specified in (2)	a time rate equal to the basis rate.

For the purpose of this definition—

(a) the expression "basis rate" means the piece work basis time rate applicable to the worker or which is applicable when no general minimum piece rate applies or where no such piece work basis time rate is applicable the general minimum time rate which would apply if the worker were a time worker.

(b) where a worker is employed on work to which more than one minimum rate applies, the rate shall be ascertained by reference to the work on which he has been mainly employed in the twelve months prior to the holiday in the case of a customary holiday or holiday in lieu of a customary holiday, the commencement of the holiday season in the case of an annual holiday, or an additional annual holiday, or the date of the termination of the employment where accrued holiday remuneration is payable.

(c) where a worker is usually employed partly on time work and partly on piece work, he shall be treated as having been employed on piece work for the whole of his time.

(d) where a female worker aged under 21 years is employed on pan work the general minimum time rate applicable shall be the rate that would be applicable if she were employed as a worker other than a pan hand.

"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 ended on 5th April immediately preceding the commencement of the holiday season or, where under paragraph 12 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 for which statutory minimum remuneration has been fixed.

"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 (or, where the holiday is taken in more than one period, at the date of the first period), at the date or dates of the additional annual holiday, or at the termination date, as the case may be, 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 at the appropriate rate of statutory minimum remuneration for work for which statutory minimum remuneration is payable and at the same rate for any work for the same employer for which such remuneration is not payable, and in this definition "appropriate proportion" means—

where the worker's normal working week is six days—two-elevenths.

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.

"OUTWORKER" means a worker who works in his own home or in any other place not under the control or management of the employer.

"STATUTORY MINIMUM REMUNERATION" means statutory 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 Brush and Broom Wages Council (Northern Ireland).

"TOTAL REMUNERATION" means any payments paid or payable to the worker under his contract of employment for time (other than hours of overtime) worked or piece work done by him (other than during hours of overtime), holiday remuneration, any productivity or long-service bonus payable to the worker on a weekly, fortnightly, or monthly basis and merit payments so payable but does not include any other payments.

"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 16th June 1970, 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 Brush and Broom Wages Regulation (Holidays) Order (Northern Ireland) 1969 (Order N.I.B.B. (101)).

Order N.I.B.B. (101) is revoked.

New provisions in the Schedule are printed in italics.