**1971. No. 211** [NC]

# WAGES COUNCILS

## Wages Regulation (Sugar Confectionery and Food Preserving)

ORDER, DATED 2ND JULY 1971, 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 Sugar Confectionery and Food Preserving Wages Council (Northern Ireland):—

*Citation*

**1.** This Order may be cited as the Sugar Confectionery and Food Preserving Wages Regulation (Holidays) Order (Northern Ireland) 1971.

*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 Sugar Confectionery and Food Preserving Wages Regulation (Holidays) Order (Northern Ireland) 1968(b) shall cease to have effect.

*Interpretation*

**3.** In this Order the expression "the specified date" means the 20th day of July 1971, 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 2nd day of July 1971.

*J. H. Scott,*
Assistant Secretary.

(a) 1945. c. 21. (b) S.R. & O. (N.I.) 1968, No. 58.

## 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 Sugar Confectionery and Food Preserving Wages Regulation (Holidays) Order (Northern Ireland) 1968 (Order N.I.F. (75)).

### 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 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, 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) 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 of this Schedule 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.

(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 7 of this Schedule.

PART III

ANNUAL HOLIDAYS

Paragraph 3.

(1) In addition to the holidays specified in Part II of this Schedule, an employer shall, between 1st May and 31st October *1971*, and in each succeeding year between 1st May and 31st October (in this Schedule 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:—

| Period of employment | Duration of annual holidays |
|---|---|
| At least 48 weeks .. .. .. .. | 10 days |
| „ 43 „ .. .. .. .. | 9 „ |
| „ 38 „ .. .. .. .. | 8 „ |
| „ 33 „ .. .. .. .. | 7 „ |
| „ 28 „ .. .. .. .. | 6 „ |
| „ 24 „ .. .. .. .. | 5 „ |
| „ 19 „ .. .. .. .. | 4 „ |
| „ 14 „ .. .. .. .. | 3 „ |
| „ 9 „ .. .. .. .. | 2 „ |
| „ 4 „ .. .. .. .. | 1 day |

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

(a) Subject to the provisions of paragraph 5 the number of days of annual holiday to which a worker is entitled in any holiday season shall not exceed in the aggregate twice the period 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 holiday shall be treated as consecutive notwithstanding that a customary holiday or a holiday in lieu of a customary holiday intervenes.

Provided that, where the duration of an annual holiday to which a worker is entitled exceeds the period constituting the worker's normal working week, the said holiday may 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.

## ADDITIONAL ANNUAL HOLIDAYS

Paragraph 5.

A worker who, at 31st December *1971* and at 31st December in each succeeding year, has completed *2* years' continuous employment with the same employer shall be entitled to *5* days' of additional annual holidays during the calendar year next following that date. Such days of additional annual holidays shall be allowed by the employer to the worker on days on which the worker is normally required to work and at a time or times to be determined by the employer.

Provided that the number of days of additional annual holidays shall not exceed in the aggregate in any calendar year the period constituting the worker's normal working week.

(NOTE: Employers are reminded of their obligation to keep records in relation to the new provisions concerning additional annual holidays. The Wages Councils Act (Northern Ireland) 1945 requires every employer to keep such records as are necessary to show whether the provisions of the Act are being complied with as respects persons in his employment and, where such persons are workers in relation to whom the Sugar Confectionery and Food Preserving Wages Council (Northern Ireland) operates, this now entails keeping a record of the dates on which they entered his employment).

Paragraph 6.

An employer shall give to a worker reasonable notice of the commencing date and duration of his holiday and of his additional annual holidays. 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

### CUSTOMARY HOLIDAYS

Paragraph 7.

(1) For each day of customary holiday to which a worker is entitled under the provisions of Part II he shall be paid by the employer one day's holiday pay (as defined in paragraph 13).

Provided that payment of the aforesaid holiday remuneration shall be subject to the conditions that (a) the worker has worked the last working day on which work was available to him preceding the holiday and (b) the first working day on which work was available to him following the holiday or, if in either case he fails to do so, failure is by reason of the proved illness of the worker or with the consent of his employer.

(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 and in that case condition (b) in sub-paragraph (1) shall not apply.

## ANNUAL HOLIDAYS

Paragraph 8.

Subject to the provisions of paragraph 9—

(1) a worker entitled to be allowed an annual holiday under Part III shall be paid by his employer, on the last pay day preceding such annual holiday, one day's holiday pay (as defined in paragraph 13) in respect of each day thereof.

(2) a worker entitled to be allowed additional annual holidays under Part III shall be paid by his employer, on the pay day on which the wages for the pay week including the additional annual holidays are paid, one day's holiday pay (as defined in paragraph 13) in respect of each day thereof.

Paragraph 9.

Where accrued holiday remuneration has been paid by the employer to the worker (in accordance with paragraph 10(1) or in accordance with the provisions of Order N.I.F. (75)) 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 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.

## ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

Paragraph 10.

(1) If a worker ceases to be employed 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 as accrued holiday remuneration:—

(a) in respect of any period of employment occurring before 1st May 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 8 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 1st May aforesaid in respect of that period of employment and,

(b) in respect of any period of employment since 1st May immediately preceding the termination date, an amount equal to one day's holiday pay (as defined in paragraph 13) 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 taken an annual holiday at the termination date, LESS any accrued holiday remuneration already paid by the employer to the worker in respect of that period.

(2) If a worker ceases to be employed in any calendar year before being allowed the additional annual holidays for which he has qualified under the provisions of Part III the employer shall, on the termination date, pay to the worker as accrued holiday remuneration one day's holiday pay (as defined in paragraph 13) for each of the 5 such days for which he has so qualified LESS any holiday remuneration already paid for any day or days of additional annual holiday allowed between 1st January immediately preceding the termination date and that date.

(3) A worker shall not be entitled to the payment by his employer of accrued holiday remuneration if he is dismissed on the grounds of serious misconduct connected with his employment provided that he is so informed by his employer at the time of dismissal.

## PART V

## GENERAL

Paragraph 11.

For the purposes of calculating any period of employment entitling a worker to an annual holiday or to any accrued holiday remuneration and for the purpose of calculating the period of continuous employment specified in paragraph 5, 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 on not less than three days 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 (provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed eight weeks in the aggregate in each period of twelve months immediately preceding the commencement of the holiday season); or

(iii) he has been suspended throughout one week at a time owing to shortage of work; 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) of this paragraph, 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 12.

Where any day of holiday allowed to a 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 13.

In this Schedule 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 in the employment of the employer during the 12 months immediately preceding the commencement of the holiday season or where, under paragraph 10, accrued holiday remuneration is payable on the termination of the employment, during the 12 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 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 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 excluding overtime; and

(b) if paid at the appropriate time 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 Sugar Confectionery and Food Preserving Wages Council (Northern Ireland).

"WEEK" means "pay week."

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## 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 20th July 1971, 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 Sugar Confectionery and Food Preserving Wages Regulation (Holidays) Order (Northern Ireland) 1968 (Order N.I.F. (75)).

Order N.I.F. (75) is revoked.

New provisions in the Schedule are printed in italics.