EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

This Order, which has effect from the 24th October, 1949, sets out the statutory minimum remuneration payable to workers (other than watchmen) in relation to whom the Retail Bookselling and Stationery Trades Wages Council (Great Britain) operates.

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# The Retail Bookselling and Stationery Trades Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1949

## 1949 No. 1746

*Made - - - -* *19th September,* 1949
*Coming into Operation* *24th October,* 1949

R.B.C. (4)

Whereas the Minister of Labour and National Service (hereinafter in this Order referred to as " the Minister ") has received from the Retail Bookselling and Stationery Trades Wages Council (Great Britain) (hereinafter in this Order referred to as " the Wages Council ") the wages regulation proposals set out in the Schedule hereto being proposals for requiring workers in relation to whom the Wages Council operates to be allowed holidays by their employers and for fixing holiday remuneration to be paid by their employers to those workers ;

Now, therefore, the Minister by virtue of the powers conferred on him by section 10 of the Wages Councils Act, 1945(**a**), and of all other powers in that behalf, hereby makes the following Order :—

*Short title and interpretation*

**1.**—(1) This Order may be cited as the Retail Bookselling and Stationery Trades Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1949.

(2) In this Order the expression " the specified date " means the 24th day of October, 1949, 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.

(3) The Interpretation Act, 1889(**b**), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

*Fixing of holidays and holiday remuneration*

**2.**—(1) Effect is hereby given to the said wages regulation proposals set out in the Schedule hereto.

(2) The provisions of the Schedule hereto shall have effect as from the specified date.

Signed by order of the Minister of Labour and National Service this 19th day of September, 1949.

*Godfrey H. Ince,*
Secretary of the
Ministry of Labour and National Service.

(**a**) 8 & 9 Geo. 6. c. 17. (**b**) 52 & 53 Vict. c. 63.

## SCHEDULE

### PART I

### APPLICATION

Paragraph 1

This Schedule applies to every worker 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 in this Schedule referred to as a " customary holiday ") in each year on each of the days specified in the next following sub-paragraph, provided that the worker (unless excused by the employer or absent by reason of the proved illness of, or accident to, the worker) has worked for the employer throughout the last working day on which work was available to him immediately prior to the customary holiday.

(2) The said customary holidays are:—

(*a*) (i) In England and Wales—

Christmas Day (or, if Christmas Day falls on a Sunday, such week day as may be appointed by national proclamation, or, if none is so appointed, the next following Tuesday), Boxing Day, Good Friday, Easter Monday, Whit Monday and August Bank Holiday.

(ii) In Scotland—

New Year's Day (or, if New Year's Day falls on a Sunday, the following Monday);

the local Spring holiday;

the local Autumn holiday; and

three other days (being days on which the worker would normally work) 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 (other than a day fixed by the employer in Scotland and notified to the worker as aforesaid) a day substituted by the employer therefor, 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 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 such holiday on which he so works, the worker shall be entitled to be allowed a day's holiday (hereinafter in this Schedule referred to as a " holiday in lieu of a customary holiday ") on a week day on which he would normally work within the period of 28 days 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, holiday remuneration in accordance with paragraph 6 of this Schedule.

### PART III

### ANNUAL HOLIDAYS

Paragraph 3

(1) In addition to the holidays specified in Part II of this Schedule and subject to the provisions of sub-paragraph (2) of this paragraph an employer shall, between the 24th day of October, 1949, and the 31st day of December, 1949, and in each succeeding year between the 1st day of April and the 31st day of October (hereinafter in this Schedule referred to as " the holiday

season") allow a holiday (hereinafter in this Schedule 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 immediately preceding the 1st day of April in that year for any one of the periods of employment (calculated in accordance with the provisions of paragraph 10 of this Schedule) set out in the first column of the table below and the duration of the annual holiday shall in the case of each such worker be related to that period as follows:—

| Period of employment | Duration of annual holiday | |
|---|---|---|
| | Where the worker's normal working week is 6 days | Where the worker's normal working week is 5 days or less |
| Not less than 12 months ... ... ... | 12 days | 10 days |
| 11 " but less than 12 months | 11 " | 9 " |
| 10 " " 11 " | 10 " | 8 " |
| 9 " " 10 " | 9 " | 7 " |
| 8 " " 9 " | 8 " | 6 " |
| 7 " " 8 " | 7 " | 5 " |
| 6 " " 7 " | 6 " | 5 " |
| 5 " " 6 " | 5 " | 4 " |
| 4 " " 5 " | 4 " | 3 " |
| 3 " " 4 " | 3 " | 2 " |
| 2 " " 3 " | 2 " | 1 day |
| 1 month " " 2 " | 1 day | 1 " |

(2) Notwithstanding the provisions of the last foregoing sub-paragraph—

(*a*) 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;

(*b*) where in any year a worker does not wish to take his annual holiday or part thereof during the current holiday season, and, before the expiration of such holiday season, enters into an agreement in writing with his employer that the annual holiday or part thereof shall be allowed after the expiration of the current holiday season but before the commencement of the next following holiday season at a date or dates to be specified in that agreement then any day or days of annual holiday so allowed shall be treated as having been allowed during the current holiday season;

(*c*) where a worker has, on the 1st day of August in any year, been in the employment of the employer for not less than six months, the duration of his annual holiday in that year shall be not less than the number of days in his normal working week;

(*d*) the number of days of annual holiday to be allowed to a worker during the holiday season ending on the 31st day of December, 1949, shall be reduced by the number of days (if any) of holiday with pay (not being days of customary holiday) which have been allowed by the employer to and taken by the worker during the period commencing on the 1st day of April, 1949, and ending upon the 24th day of October, 1949.

Paragraph 4

An annual holiday shall be allowed on consecutive working days, being days upon which the worker is normally called upon to work, and days of holiday shall be treated as consecutive notwithstanding the intervention of a customary holiday or a holiday in lieu of a customary holiday.

Provided that:—

(1) 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;

(2) one day of the annual holiday may be allowed on a non-consecutive working day (other than the worker's weekly short day) falling within the holiday season (or after the holiday season in the circumstances specified in sub-paragraph (2) (*b*) of paragraph 3 of this Schedule) where the said annual holiday or, as the case may be, such separate period, is allowed immediately after a customary holiday or so that such a holiday intervenes.

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

## REMUNERATION FOR CUSTOMARY HOLIDAYS

Paragraph 6

(1) Subject to the provisions of this paragraph, for each day of holiday to which a worker is entitled under Part II of this Schedule he shall be paid by the employer holiday remuneration equal to the appropriate statutory minimum remuneration to which he would have been entitled if the day had not been a day of holiday and he had been employed on work to which statutory minimum remuneration applies for the time usually worked by him on that day of the week.

Provided, however, 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 the proved illness of, or accident to, the worker) presents himself for employment at the usual starting hour on the first working day following the holiday.

(2) The 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 first working day following the holiday are paid.

(3) The holiday remuneration in respect of any holiday in lieu of a customary holiday shall be paid on the pay-day on which the wages are paid for the first working day following the holiday in lieu. 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) of this paragraph shall not apply.

## REMUNERATION FOR ANNUAL HOLIDAYS

Paragraph 7

(1) Subject to the provisions of paragraph 8 of this Schedule, a worker entitled to be allowed an annual holiday under this Schedule 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 of this Schedule) in respect of each day thereof.

(2) Where under the provisions of paragraph 4 of this Schedule an annual holiday is taken 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 of this Schedule) 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 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 9

Subject to the provisions of this paragraph, if a worker ceases to be employed before being entitled to be allowed an annual holiday or before being allowed the whole of any annual holiday to which he is entitled under this Schedule, the employer shall, immediately on the termination of the employment (hereinafter called "the termination date"), pay to the worker as accrued holiday remuneration:—

(i) in respect of any period of employment occurring before the 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 of this Schedule 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,

(ii) in respect of any period of employment since the 1st April immediately preceding the termination date, an amount equal to one day's holiday pay (as defined in paragraph 12 of this Schedule) multiplied by the number of days of annual holiday to which the worker would have been entitled under the provisions of paragraph 3 of this Schedule, 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.

Provided that no worker shall be entitled to the payment by his employer of accrued holiday remuneration if he is dismissed on the grounds of misconduct and is so informed by the employer at the time of dismissal.

## 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 under this Schedule, the worker shall be treated:—

(*a*) as if he were employed for a month in respect of any month in which—

(i) he has worked for the employer for not less than 72 hours and has performed some work to which statutory minimum remuneration applies; or

(ii) he has worked for the employer for less than 72 hours, or has performed no work, solely by reason of proved illness or accident (provided that the number of months which may be treated as months of employment for such reason shall not exceed two in any such period as aforesaid); and

(*b*) as if he were employed on any day of holiday allowed under the provisions of this Schedule and for the purpose of the provisions of (*a*) of this paragraph, 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 on work to which statutory minimum remuneration applies.

Paragraph 11

Where any day of annual holiday allowed to any worker under this Schedule falls upon a day of holiday or a half-holiday to which the worker may be

entitled under any enactment other than the Wages Councils Act, 1945, that day of holiday or that half-holiday, as the case may be, shall be treated as part of the annual holiday allowed under this Schedule.

Provided that where the total number of days of annual holiday allowed to a worker is less than the number of days in his normal working week, the annual holiday allowed under this Schedule shall be in addition to the said day of holiday or the said half-holiday.

Paragraph 12

In this Schedule, unless the context otherwise requires, 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 of this Schedule, 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 remuneration which the worker would be entitled to receive from his employer at the date of the annual holiday (or where the annual holiday is taken in more than one period at the date of the first period) 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 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, 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-fourth |
| 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. |

"Statutory minimum remuneration" means minimum remuneration (other than holiday remuneration) fixed by a wages regulation order made by the Minister to give effect to proposals submitted to him by the Wages Council.

"Month" means "calendar month".

Paragraph 13

The provisions of this Schedule are without prejudice to any agreement for the allowance of any further holidays with pay or for the payment of additional holiday remuneration.

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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 has effect from the 24th October, 1949, sets out the annual holidays and certain other days of holiday (referred to as "customary holidays") which an employer is required to allow to workers (other than watchmen) in relation to whom the Retail Bookselling and Stationery Trades Wages Council (Great Britain) operates and the holiday remuneration payable to such workers.