The Hair, Bass and Fibre Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1951

1951 No. 784

Made - - - - 3rd *May*, 1951
Coming into Operation 23rd *May*, 1951

H.B. (37)

Whereas the Minister of Labour and National Service (hereinafter in this Order referred to as " the Minister ") has received from the Hair, Bass and Fibre Wages Council (Great Britain) (hereinafter in this Order referred to as " the Council ") the wages regulation proposals set out in the Schedule hereto, being proposals for requiring workers in relation to whom the Council operates to be allowed holidays by their employers and for fixing holiday remuneration to be paid by their employers to those workers in substitution for the holidays provided for, and the holiday remuneration fixed, by the Hair, Bass and Fibre Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1947(a), (hereinafter in this Order referred to as " Order H.B. (31) ");

Now, therefore, the Minister, by virtue of the powers conferred on him by section 10 of the Wages Councils Act, 1945(b), 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 Hair, Bass and Fibre Wages Council (Great Britain) Wages Regulation (Holidays) Order, 1951.

(2) In this Order the expression " the specified date " means the 23rd day of May, 1951, 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(c), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Fixing of holidays and holiday remuneration and revocation of Order H.B. (31)

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 and as from that date Order H.B. (31)(a) shall cease to have effect.

Signed by order of the Minister of Labour and National Service this 3rd day of May, 1951.

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

(a) S.R. & O. 1947 (No. 2143) I, p. 2465. (b) 8 & 9 Geo. 6. c. 17. (c) 52 & 53 Vict. c. 63.

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 Order H.B. (31).

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 in his employment to whom this Schedule applies a holiday (hereinafter in this Schedule referred to as a "customary holiday") in each year on the days specified in the following sub-paragraph provided that the worker was in his employment for a period of not less than two weeks immediately preceding the customary holiday and (unless excused by the employer or absent by reason of the proved illness of the worker) worked for the employer throughout the last working day on which work was available to him immediately preceding 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 therefor by the employer, 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 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 employer shall allow to the worker a day's holiday (hereinafter in this Schedule referred to as a "holiday in lieu of a customary holiday") on a week-day within the period of two months next ensuing.

(4) A worker who is so required to work on a customary holiday shall be paid:—

(*a*) for all time worked thereon, the 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 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 paragraph 4 of this Schedule an employer shall before the 30th day of September, 1951 and in each succeeding year between the 1st day of May and the 30th day of September 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 was employed by him during the twelve months immediately preceding the commencement of the holiday season for any of the periods set out in the table below, and the duration of the annual holiday shall in the case of each such worker be related to his period of employment during that twelve months as follows:—

Period of employment, calculated in accordance with the provisions of paragraph 10 of this Schedule	*Duration of annual holiday where the worker's normal working week is:—*			
	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* ,,	*4* ,,	*4* ,,	*3* ,,
,, ,, *20* ,, ...	*5* ,,	*3* ,,	*3* ,,	*2* ,,
,, ,, *16* ,, ...	*4* ,,	*2* ,,	*2* ,,	*2* ,,
,, ,, *12* ,, ...	*3* ,,	*2* ,,	*2* ,,	*1 day*
,, ,, *8* ,, ...	*2* ,,	*1 day*	*1 day*	*1* ,,

(2) Notwithstanding the provisions of the last foregoing sub-paragraph the duration of the worker's annual holiday during the holiday season ending on the 30th day of September, 1951, shall be reduced by any days of annual holiday duly allowed to him by the employer under the provisions of Order H.B. (31) between the 1st day of May, 1951 and the date on which the provisions of this Schedule become effective.

(3) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1951 the period commencing on the 1st day of May, 1951, and ending on the 30th day of September, 1951, and in relation to each subsequent year, the period commencing on the 1st day of May and ending on the 30th day of September in that year.

Paragraph 4

(1) Annual holidays under this Schedule shall be allowed on consecutive working days, being days on which the worker is normally called upon to work for the employer, and days of holiday shall be treated as consecutive notwithstanding that a Sunday, 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 duration of an annual holiday which the employer is required to allow to a worker exceeds the period constituting the worker's normal working week the said holiday may by agreement in writing made between the employer and the worker 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; and*

(*b*) *one day of an annual holiday may be allowed on a non-consecutive working day falling within the holiday season where the said annual holiday or such separate period, as the case may be, is allowed immediately after a customary holiday on which the worker is not required to work or so that such a customary holiday intervenes.*

(2) Subject to the provisions of sub-paragraph (1) of this paragraph, any day of 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, 1945.

Paragraph 5

An employer shall give a worker notice of the commencing date or dates and duration of the period or periods 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 of this Schedule, an annual holiday is taken 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 AND HOLIDAYS IN LIEU OF CUSTOMARY HOLIDAYS

Paragraph 6

(1) 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 amount to which he would have been entitled, calculated at the appropriate rate of statutory minimum remuneration, if the day had not been a day of holiday and he had worked on that day on work for which statutory minimum remuneration is payable for the time usually 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 the proved illness of 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 pay week including the customary 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 for the week including 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 if he ceases to be employed before being allowed such holiday in lieu of a customary holiday and in that case the condition specified in sub-paragraph (1) of this paragraph shall not apply.

B—ANNUAL HOLIDAYS

Paragraph 7

(1) Subject to the provisions of paragraph 8 of this Schedule, a worker qualified to be allowed an annual holiday under this Schedule shall be paid by his employer, on the last pay day preceding such holiday, *one day's holiday pay (as defined in paragraph 11 of this Schedule) in respect of each day thereof.*

(2) Where under the provisions of paragraph 4 of this Schedule 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 of this Schedule or under the Schedule to Order H.B. (31)) in respect of employment during any of the periods referred to in paragraph 9 of this Schedule, 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 or of the Schedule to Order H.B. (31).

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

Paragraph 9

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 (hereinafter in this Schedule called " the termination date "), pay to the worker accrued holiday remuneration as follows:—

(1) in respect of any period of employment since the 30th day of April immediately preceding the termination date, *an amount equal to one day's holiday pay (as defined in paragraph 11 of this Schedule) multiplied by the number of days of annual holiday for which the worker would have been qualified 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,* other than days which have been taken into account in calculating any accrued holiday remuneration previously paid by the employer to the worker in respect of that period of employment under the provisions of this Schedule or of the Schedule to Order H.B. (31), and,

(2) where the termination date occurs during a holiday season and before the worker has become entitled to be allowed any days of annual holiday for which he has qualified but which he has not been allowed, in respect of any period of employment occurring during the twelve months ending with the 30th day of April immediately preceding the termination date, *an amount equal to one day's holiday pay (as defined in paragraph 11 of this Schedule) multiplied by that number of days of annual holiday which at the termination date have not been allowed to the worker in respect of that period of employment, being days of annual holiday which if the employment had not been terminated, the employer would have been required to allow to the worker in respect of that period before the end of the holiday season,* less any accrued holiday remuneration already paid by the employer to the worker in respect of that period, unless such remuneration has been deducted from a previous payment of holiday remuneration under the provisions of this Schedule or of the Schedule to Order H.B. (31).

PART V
GENERAL

Paragraph 10

For the purposes of calculating any period of employment qualifying a worker for an annual holiday or for any accrued holiday remuneration under this Schedule, 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 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, but not exceeding four weeks in the aggregate in the period of twelve months immediately preceding the commencement of the holiday season; and

(*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 thereon for the employer on work to which statutory minimum remuneration applies.

Paragraph 11

(1) In this Schedule, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"APPROPRIATE RATE OF STATUTORY MINIMUM REMUNERATION" means—

(*a*) in the case of a worker who is usually wholly employed as a time worker, the general minimum time rate ordinarily applicable to the worker;

(*b*) in the case of a worker who is usually employed on piece work,

(i) where the worker is aged over 18 years and a piece work basis time rate is applicable, a time rate equal to the piece work basis time rate ordinarily applicable to the worker,

(ii) in any other case the general minimum time rate which would be ordinarily applicable to the worker if he were employed as a time worker.

Provided that for the purposes of this definition—

(i) a rate ordinarily applicable to a worker shall be ascertained by reference to the work on which he has been mainly employed in the twelve months immediately prior to the holiday in the case of a customary holiday, the commencement of the holiday season in the case of an annual holiday or the termination date where accrued holiday remuneration is payable,

(ii) where a worker is usually employed partly on time work and partly on piece work, he shall be treated as having been usually employed wholly on piece work.

"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 twelve months immediately preceding the

commencement of the holiday season, or, where under paragraph 8 and paragraph 9 of this Schedule, accrued holiday remuneration is payable on the termination of the employment, in the twelve months immediately preceding the termination date.

Provided that:—

(i) part of a day shall count as a day; and

(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) 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, and in this definition "appropriate proportion" means—

where the worker's normal working week is six days—one sixth
" " " " " " " five " —one fifth
" " " " " " " four " —one quarter
" " " " " " " three " —one third

"STATUTORY MINIMUM REMUNERATION" means statutory minimum remuneration (other than holiday remuneration) which has been fixed by a wages regulation order.

"WAGES REGULATION ORDER" means a wages regulation order made by the Minister to give effect to proposals submitted to him by the Hair, Bass and Fibre Wages Council (Great Britain).

"WEEK" means pay week.

Paragraph 12.

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.

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 23rd May, 1951, sets out the annual holidays and certain other days of holiday which an employer is required to allow to workers in relation to whom the Hair, Bass and Fibre Wages Council (Great Britain) operates, and the remuneration payable to such workers for those holidays.

It supersedes Order H.B. (31), which is revoked.

New provisions in the Schedule are printed in italics.