

1980 No. 143

WAGES COUNCILS

**Shirtmaking Wages Regulation (Holidays) Order
(Northern Ireland) 1980**

Made 25th April 1980

Coming into operation 20th May 1980

The Department of Manpower Services, in exercise of the powers conferred on it by section 10 of the Wages Councils Act (Northern Ireland) 1945(a), and now vested in it(b), and of every other power enabling it in that behalf, hereby makes the following Order to give effect to wages regulation proposals received from the Shirtmaking Wages Council (Northern Ireland).

Citation

1. This Order may be cited as the Shirtmaking Wages Regulation (Holidays) Order (Northern Ireland) 1980.

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 Shirtmaking Wages Regulation (Holidays) Order (Northern Ireland) 1974(c), the Shirtmaking Wages Regulation (Amendment) Order (Northern Ireland) 1978(d) and the Shirtmaking Wages Regulation (Holidays) (Amendment) Order (Northern Ireland) 1978(e) shall cease to have effect.

Interpretation

3. In this Order the expression "the specified date" means 20th May 1980, 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 Department of Manpower Services for
Northern Ireland on 25th April 1980

(L.S.)

R. O. Surgenor

Assistant Secretary

(a) 1945 c. 21 (N.I.)

(b) 1946 c. 11 (N.I.); S.R. & O. (N.I.) 1964 No. 205 (p. 937) and S.R. & O. (N.I.) 1973 No. 504 Art. 6(1) and Sch. 3 (II, p. 2992).

(c) S.R. 1974 No. 4 (I, p. 9)

(d) S.R. 1978 No. 254 (II, p. 877)

(e) S.R. 1978 No. 264 (II, p. 924)

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 Shirtmaking Wages Regulation (Holidays) Order (Northern Ireland) 1974 (Order N.I.S. (89)), as amended by the Shirtmaking Wages Regulation (Amendment) Order (Northern Ireland) 1978 (Order N.I.S. (99)) and the Shirtmaking Wages Regulation (Holidays) (Amendment) Order (Northern Ireland) 1978 (Order N.I.S. (101)).

PART I

APPLICATION

Paragraph 1.

- (1) This Schedule applies to every worker (other than an outworker) for whom statutory minimum remuneration has been fixed.
- (2) An outworker 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 four 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 five 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 to work thereon and, in lieu of any customary 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 6.

PART III

ANNUAL HOLIDAYS

Paragraph 3.

- (1) Subject to the provisions of paragraph 4, in addition to the holidays specified in Part II of this Schedule, an employer shall, between 6th April and 30th September in 1980 and in each succeeding year, 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 12 months immediately preceding the commencement of the holiday season for any of the periods of employment (calculated in accordance with the provision of paragraph 10) specified below, and the duration of the annual holiday shall in the case of each such worker be related to that period as follows—

<i>Period of employment</i>	<i>Duration of annual holiday in period commencing 6th April, 1980</i>
<i>At least 48 weeks</i>	<i>18 days</i>
" 46 "	17 "
" 44 "	16 "
" 42 "	15 "
" 40 "	14 "
" 38 "	13 "
" 36 "	12 "
" 33 "	11 "
" 30 "	10 "
" 27 "	9 "
" 24 "	8 "
" 21 "	7 "
" 18 "	6 "
" 15 "	5 "
" 12 "	4 "
" 9 "	3 "
" 6 "	2 "
" 3 "	1 day

- (2) Notwithstanding the provisions of sub-paragraph (1) 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 three times the number of days constituting the worker's normal working week *plus 3 days*.

Paragraph 4.

An annual holiday shall be allowed on consecutive working days, being days on which the worker is normally required to work, and days of annual holiday shall be treated as consecutive notwithstanding that 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 number of days of annual holiday for which a worker has qualified exceeds the number of days constituting his normal working week but does not exceed twice that number, the annual holiday may be allowed in two periods of such consecutive working days so, however, that when an annual 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;
- (b) where the number of days of annual holiday for which a worker has qualified exceeds twice the number of days constituting his normal working week the annual holiday may be allowed as follows:—
 - (i) as to two periods of consecutive working days, each such period not being less than the period constituting the worker's normal working week, during the holiday season; and
 - (ii) as to any additional days, on working days which need not be consecutive, to be fixed by the employer, either during the holiday season or within the period ending on 8th January immediately following the holiday season.

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

HOLIDAY REMUNERATION

A — CUSTOMARY HOLIDAYS

Paragraph 6.

- (1) For each day of customary holiday (including a customary holiday falling on a Saturday) to which a worker is entitled under Part II he shall be paid by the employer as holiday remuneration an amount calculated by dividing the *worker's gross earnings during the first ten full working weeks in the current calendar year by the number of weekdays on which the worker would normally have worked during that period.*

Provided that the number of weekdays on which the worker would normally have worked shall, for the purpose of this calculation, be reduced by the number of days on which the worker was absent due to lay-off or to certified illness or accident.

Provided also that the words "gross earnings", "working week", "current calendar year" and "lay-off" shall be as defined in paragraph 12.

- (2) *Where an employee, although in the employment of an employer, has been absent for the whole of the first ten full working weeks in the current calendar year, then, for each day of customary holiday (including a customary holiday falling on a Saturday) to which he is entitled under Part II, the worker shall be paid by the employer whichever of the following amounts is the greater:—*

(a) *one-fifth of the average weekly earnings of the worker where the average weekly earnings are determined by dividing the gross earnings in the year ended on the 5th April, immediately preceding the holiday, by the number of weeks of employment with that employer during that period,*

- or (b) *one day's holiday pay (as defined in paragraph 12) in respect of each day of customary holiday to which the worker is entitled under the provisions of paragraph 2.*

- (3) Notwithstanding the provisions of sub-paragraph (1) payment of the said holiday remuneration shall be subject to the condition that the worker presents himself for employment at the usual starting hour on the first working day following the customary holiday or, if he fails to do so, such failure is by reason of proved illness of the worker or with the consent of the employer.

Provided that when two customary holidays occur on successive days (or so that no working day intervenes) the said conditions shall apply only to the second customary holiday.

- (4) *Where a worker normally works in the week on every weekday except Saturday, he shall be paid a sum equivalent to the holiday remuneration in respect of any Saturday in respect of which he would have been entitled to a customary holiday under Part II if it had been a day on which he normally worked.*
- (5) *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 which includes the customary holiday are paid.*
- (6) *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 which includes 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 the condition specified in sub-paragraph (3) 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 under this Schedule shall, on the last pay-day preceding such annual holiday, be paid by his employer as holiday remuneration in respect of each day thereof an amount calculated by dividing the worker's gross earnings during the first ten full working weeks in the current calendar year by the number of weekdays on which the worker would normally have worked during that period.*

Provided that the number of days on which the worker would normally have worked shall, for the purpose of this calculation, be reduced by the number of days on which the worker was absent due to lay-off or to certified illness or accident.

Provided also that the words "gross earnings," "working week," "current calendar year" and "lay-off" shall be as defined in paragraph 12.

- (2) *Where an employee, although in the employment of an employer, has been absent for the whole of the first ten full working weeks in the current calendar year, then, subject to the provisions of paragraph 8, a worker qualified to be allowed an annual holiday under this Schedule shall be paid by his employer in respect thereof, on the last pay-day preceding such annual holiday, as holiday remuneration for the period commencing on 6th April 1980 and for each succeeding period commencing on 6th April, whichever of the following amounts is the greater:—*
- (a) *eighteen two hundred and fiftieths of the total remuneration paid by the employer to the worker during the twelve months ended on 5th April immediately preceding the holiday;*
- or (b) *one day's holiday pay (as defined in paragraph 12) in respect of each day of annual holiday to which the worker is entitled under the provisions of paragraph 3.*
- (3) *Where, under the provisions of paragraph 4, an annual holiday is allowed in two or more separate periods, the holiday remuneration shall be apportioned accordingly.*

C — ACCRUED HOLIDAY REMUNERATION

Paragraph 8.

Where, in accordance with paragraph 9 any accrued holiday remuneration has been paid by the employer to the worker 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 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.

Paragraph 9.

- (1) *If a worker ceases to be employed by an employer, the employer, immediately on termination of the employment, shall:—*
- (a) *pay the worker for any days of annual holiday to which the worker is entitled, but has not, at the date of termination of the employment, been allowed,*
- and (b) *pay the worker for any days of annual holiday that have accrued in respect of employment during the holiday period in which the employment terminates.*
- (2) *The amount of any holiday remuneration and/or accrued holiday remuneration to be paid to the worker in accordance with paragraphs (1)(a) and (1)(b) above shall be the sum of the following amounts:—*
- (a) *an amount calculated in accordance with the provisions of paragraphs 3 and 7 of this Schedule as they would apply to the worker in respect of a holiday period ending on the 5th April immediately preceding the date of termination of the employment,*
- and (b) *an amount calculated in accordance with the provisions of paragraphs 3 and 7 of this Schedule as they would apply to the worker in respect of a holiday period commencing on the 6th April immediately preceding the date of termination of the employment.*
- (3) *Any holiday remuneration or accrued holiday remuneration payable under the provisions of this paragraph shall be reduced by the amount of holiday remuneration or accrued holiday remuneration already paid by the employer to the worker in pursuance of this Order in respect of the same period of employment or part thereof.*

PART V GENERAL

Paragraph 10.

For the purpose of calculating any period of employment qualifying a worker for an annual holiday or for 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 hours 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 but not exceeding six weeks in the aggregate in the period of twelve months immediately preceding the commencement of the holiday season; or
 - (iii) he has been suspended throughout the week owing to shortage of work but not exceeding six weeks in the aggregate in the period of twelve months last mentioned; 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 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 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 12.

In this Schedule—

“Normal working week” and “Working week” mean 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 immediately preceding the commencement of the holiday season, or where under paragraph 9 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 to which statutory minimum remuneration applies.

“Week” means “Pay week”;

“Lay-off” means the absence of the worker because of shortage of work and with the employer’s consent, other than lay-off as a result of an industrial dispute within any establishment of his employer where work was being carried on within the scope of the Shirmaking Wages Council (Northern Ireland);

“Current Calendar year” means the year beginning on the 1st January of the year in which the holiday period commences;

“Gross earnings” means the total remuneration paid to a worker by his employer less any payments made for days of absence due to lay-off, illness or accident to the worker;

“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 or customary holiday, 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 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 to which such remuneration does not apply, and in this definition “appropriate proportion,” means—

where the worker’s normal working week is five days	—one-fifth
where the worker’s normal working week is four days or less	—one-quarter.

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 May 1980, 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 Shirtmaking Wages Regulation (Holidays) Order (Northern Ireland) 1974 (Order N.I.S. (89)) as amended by the Shirtmaking Wages Regulation (Amendment) Order (Northern Ireland) 1978 (Order N.I.S.(99)) and the Shirtmaking Wages Regulation (Holidays) (Amendment) Order (Northern Ireland) 1978 (Order N.I.S. (101)).

Orders N.I.S. (89), N.I.S. (99) and N.I.S. (101) are revoked.

New provisions in the Schedule are printed in italics.