

1980 No. 325

WAGES COUNCILS

**Retail Bespoke Tailoring Wages Regulation (Holidays) Order
(Northern Ireland) 1980***Made* 19th September 1980*Coming into operation* 7th October 1980

The Department of Manpower Services, in exercise of the powers conferred 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 Retail Bespoke Tailoring Wages Council (Northern Ireland).

Citation

1. This Order may be cited as the Retail Bespoke Tailoring 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 Retail Bespoke Tailoring Wages Regulation (Holidays) Order (Northern Ireland) 1974(c) and the Retail Bespoke Tailoring Wages Regulation (Holidays) (Amendment) Order (Northern Ireland) 1977(d) shall cease to have effect.

Interpretation

3. In this Order the expression "the specified date" means 7th October 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 19th September 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. 26 (I, p. 87)

(d) S.R. 1977 No. 370 (II, p. 1904)

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 Retail Bespoke Tailoring Wages Regulation (Holidays) Order (Northern Ireland) 1974 (Order N.I.T.R.B. (96)) as amended by the Retail Bespoke Tailoring Wages Regulation (Holidays) (Amendment) Order (Northern Ireland) 1977 (Order N.I.T.R.B. (100)), the Retail Bespoke Tailoring Wages Regulation (Amendment) Order (Northern Ireland) 1978 (Order N.I.T.R.B. (104)) and the Retail Bespoke Tailoring Wages Regulation (Amendment) Order (Northern Ireland) 1979 (Order N.I.T.R.B. (106)).

PART I

APPLICATION

Paragraph 1.

This Schedule applies to every worker for whom statutory minimum remuneration has been fixed; provided that Part II shall not apply to an outworker.

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 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 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 four other days (being days of the week on which the worker normally works for the employer) in the course of a calendar year to be fixed either (i) by agreement between the employer and the worker or his representative, or (ii) by the employer, in which case the days so fixed must be notified to the worker not less than eight weeks before the customary holiday; or
 - (b) a day substituted by the employer for any one of the four days first mentioned in (a), 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 1st July 1980 and 30th June 1981 and between 1st July and 30th June 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 provisions 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 1st July 1980 and in each succeeding period</i>
<i>At least 48 weeks</i>	<i>18 days</i>
<i>At least 46 weeks</i>	<i>17 days</i>
<i>At least 44 weeks</i>	<i>16 days</i>
<i>At least 42 weeks</i>	<i>15 days</i>
<i>At least 40 weeks</i>	<i>14 days</i>
<i>At least 38 weeks</i>	<i>13 days</i>
<i>At least 36 weeks</i>	<i>12 days</i>
<i>At least 33 weeks</i>	<i>11 days</i>
<i>At least 30 weeks</i>	<i>10 days</i>
<i>At least 27 weeks</i>	<i>9 days</i>
<i>At least 24 weeks</i>	<i>8 days</i>
<i>At least 21 weeks</i>	<i>7 days</i>
<i>At least 18 weeks</i>	<i>6 days</i>
<i>At least 15 weeks</i>	<i>5 days</i>
<i>At least 12 weeks</i>	<i>4 days</i>
<i>At least 9 weeks</i>	<i>3 days</i>
<i>At least 6 weeks</i>	<i>2 days</i>
<i>At least 3 weeks</i>	<i>1 day</i>

Provided that the number of days of annual holiday to which a worker shall be entitled in any holiday season shall not exceed in the aggregate 3 times the period constituting the worker's normal working week, *plus three days*.

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.

Paragraph 5.

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

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 holiday remuneration equal to the appropriate statutory minimum remuneration to which he would have been entitled as a time worker if the day had not been a holiday and he had 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, provided that 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 working day immediately preceding the holiday and on the first working day following the holiday or, if in either case he fails to do so, failure is by reason of 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 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 such holiday in lieu of a customary holiday and in that case the condition specified in sub-paragraph (1) shall not apply.

B—ANNUAL HOLIDAYS

Paragraph 7.

Subject to the provisions of paragraphs 8 and 9, a worker entitled to be allowed an annual holiday shall be paid by the employer in respect thereof on any day in the week preceding the week in which the annual holiday is due to commence—

an amount equal to *eighteen two hundred and fiftieths* of the remuneration (other than holiday remuneration) which the worker was entitled to receive from his employer for work done in the period of twelve months immediately preceding the commencement of the holiday season in which the annual holiday is to be allowed, not being remuneration taken into account in connection with any previous payment of holiday remuneration.

Paragraph 8.

On a worker ceasing to be employed the employer shall, immediately on the termination of the employment, pay to the worker any holiday remuneration which has accrued to that worker up to the end of the employment and, subject to the provisions of paragraph 9, such accrued holiday remuneration shall consist of an amount equal to *eighteen two hundred and fiftieths* of the remuneration (other than holiday remuneration) which the worker was entitled to receive from his employer for work done in the preceding twelve months, not being remuneration taken into account in connection with any previous payment of holiday remuneration.

Provided that where a worker is employed under a contract of service under which not less than one week's notice on either side is required to terminate the employment and the worker without the consent of his employer terminates his employment—

- (a) without having given not less than one week's notice, or
- (b) before one week has expired from the beginning of such notice;

the amount of accrued holiday remuneration payable to the worker shall be the amount payable under the provisions of this paragraph and of paragraph 9, less an amount of one day's holiday pay (as defined in paragraph 13) multiplied, in the case of (a), by the number of days constituting the worker's normal working week, or, in the case of (b), by the number of days which at the termination of the employment would complete a normal working week commencing at the beginning of the notice.

Paragraph 9.

For the purposes of paragraphs 3 and 8, holiday remuneration shall accrue during the period of twelve months commencing on *1st July 1980*, and thereafter in each successive period of twelve months commencing on 1st July and such accrued holiday remuneration shall be an amount equal to *eighteen two hundred and fiftieths* of the remuneration (other than holiday remuneration) which the worker was entitled to receive from his employer for work done during the twelve months aforesaid.

PART V

GENERAL

Paragraph 10.

For the purposes of calculating any period of employment entitling a worker (other than an outworker) to an annual holiday or to 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 24 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 of or accident to the worker, provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed 8 in the aggregate in the period of 12 months immediately preceding the commencement of the holiday season and provided also that the worker returns to employment with the same employer on the termination of his period of absence through such proved illness or accident; or
 - (iii) he has been suspended throughout the week owing to shortage of work, provided that the number of weeks which may be treated as weeks of employment for such reason shall not exceed 6 in the aggregate in the period of 12 months last mentioned and provided also that the worker returns to employment with the same employer on the termination of his period of suspension; 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 thereon 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.

For the purposes of calculating any period of employment entitling an outworker to an annual holiday or to any accrued holiday remuneration the outworker shall be treated as having been employed for a week if he has performed work to which statutory minimum remuneration applies for the employer in that week.

Paragraph 12.

Where any day of holiday allowed to any 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 to be allowed under this Schedule.

Paragraph 13.

In this Schedule—

“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 immediately preceding the commencement of the holiday season;

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;

“statutory minimum remuneration” means statutory minimum remuneration (other than holiday remuneration) fixed by a wages regulation order made by the Department to give effect to proposals submitted to it by the Retail Bespoke Tailoring Wages Council (Northern Ireland);

“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 termination date 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—one-quarter;

where the worker’s normal working week is three days or less—one-third;

“week” means “pay week”;

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

Paragraph 14.

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 comes into operation on 7th October 1980, sets out the holidays which an employer is required to allow to workers, and the remuneration payable for these holidays in substitution for the holidays and holiday remuneration fixed by the Retail Bespoke Tailoring Wages Regulation (Holidays) Order (Northern Ireland) 1974 (Order N.I.T.R.B. (96)) as amended by the Retail Bespoke Tailoring Wages Regulation (Holidays) (Amendment) Order (Northern Ireland) 1977 (Order N.I.T.R.B. (100)), the Retail Bespoke Tailoring Wages Regulation (Amendment) Order (Northern Ireland) 1978 (Order N.I.T.R.B. (104)) and the Retail Bespoke Tailoring Wages Regulation (Amendment) Order (Northern Ireland) 1979 (Order N.I.T.R.B. (106)).

Orders N.I.T.R.B. (96) and N.I.T.R.B. (100) are revoked.

New provisions in the Schedule are printed in italics.