

THE HOLIDAYS WITH PAY ACT

ORDER

*(under section 3)*

The Holiday with Pay Order, 1973

L.N. 189/73  
163/74  
54B/91  
Act 15/2014

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## THE HOLIDAYS WITH PAY ORDER, 1973

*(Made by the Minister on the 22nd day of May, 1973)*L.N. 189/73  
Amdts:  
L.N. 163/74  
54B/91  
Act 15/2014*[1st June, 1973.]*

1. This Order may be cited as the Holidays with Pay Order, 1973.

Citation.

2.—(1) In this Order unless the Context otherwise requires—

Inter-  
pre-  
tation.

“normal wages” means in relation to any worker, the remuneration regularly paid to him by his employer as wages or commission, and includes any amounts regularly so paid by way of bonus as part of such remuneration but does not include—

(a) any overtime wages; or

(b) any premium or special allowance paid—

(i) in consideration of the times at which, or the condition subject to which, or the circumstances in which, he works in the course of the performance of his duties; or

(ii) in consideration of any inconvenience suffered or likely to be suffered by him in the course of the performance of his duties;

“normal working week” means the number of days in a week on which the worker in relation to whom that expression is used is normally required to work for the employer by whom a holiday with pay or sick leave with pay is granted under this Order;

“public general holiday” has the meaning assigned to that expression by the Holidays (Public General) Act;

“qualifying year” means, in relation to the employment of any worker to the person who for the time being is his employer, a period of twelve months commencing, in the case of the first qualifying year—

- (a) on the 1st of January, 1973, if such employment was in existence on that date; or
- (b) on the first day of such employment if that day is later than the 1st day of January, 1973,

and in the case of the second and subsequent qualifying years, on the date immediately following the preceding qualifying year;

“worker” means any person who has entered into or works under a contract with an employer, whether the contract be by way of manual labour, clerical work or otherwise, be express or implied, oral or in writing and whether it be a contract of service or of apprenticeship or a contract personally to execute any work or labour, but does not include—

- (a) any person employed by the Government; or
  - (b) any person employed in the service of the Kingston and St. Andrew Corporation Council or of any Parish Council; or
  - (c) a director of any company who is employed by that company.
- (2) For the purposes of this Order a worker shall be deemed—

- (a) to have worked, on any day of holiday with pay granted to him under this Order, for the employer by whom such holiday was granted;
- (b) to have worked for his employer on any day of sick leave with pay granted under this Order if that employer would, but for the fact that he was granted sick leave, normally have required him so to work;
- (c) to have worked for his employer on any day on which that employer would, but for the fact that such day was Good Friday or Christmas Day or a public general holiday, normally have required him so to work;
- (d) to have worked for a full day whenever he is required to work for a part of any day.

Holiday  
with pay.

3.—(1) Any worker, other than a casual worker, who works for any employer on not less than 110 days in any qualifying year shall be granted a holiday with pay by that employer in respect of that qualifying year.

Schedule.

(2) The duration of such holiday with pay shall be determined in accordance with the Schedule.



4.—(1) The holiday with pay which any worker has earned in any qualifying year under paragraph 3—

When and how holiday with pay is to be granted.

- (a) shall be granted by his employer during the next succeeding qualifying year; or
- (b) may, by agreement between him and his employer, be granted during that qualifying year; or
- (c) may be carried forward and added to any holiday with pay which he may earn in the first two succeeding qualifying years if there is provision for accumulation of holiday with pay for not more than three consecutive years in an agreement subsisting between him, or a trade union representing him, and his employer or an organization representing his employer.

(2) Subject to the provisions of sub-paragraph (3) the days of a holiday with pay which is granted under this Order shall be consecutive working days, being days on which the worker to whom such holiday with pay is granted would normally be called upon to work for the employer by whom such holiday with pay is granted.

(3) The holiday with pay which any worker has earned in any qualifying year under this Order may be granted in two periods of consecutive working days.

(4) Good Friday, Christmas Day and a public general holiday shall not be reckoned in any holiday with pay granted under this Order and the days of such holiday shall be treated as consecutive notwithstanding that Good Friday, Christmas Day or a public general holiday intervenes.

(5) A holiday with pay shall not be granted to any worker during a period of notice given by his employer to terminate his employment.

5.—(1) The minimum holiday remuneration payable to a worker employed at time rates shall—

Minimum holiday remuneration.

- (a) in respect of each week of his holiday with pay, be the normal wages earned by him in respect of the last normal working week, prior to the commencement of such holiday, during which he worked for the employer by whom such holiday is granted; or

- (b) in respect of each day of his holiday with pay, be the normal wages earned by him in respect of the last normal working week referred to in sub-paragraph (a) divided by the number of working days constituting such normal working week.

(2) The minimum holiday remuneration payable to a worker employed at piece or task rates or on a commission basis shall, in respect of each day of his holiday with pay, be 1/65 of the total normal wages earned by him in respect of the last 13 weeks (which need not be consecutive but in each of which he worked for the employer by whom such holiday is granted) prior to the commencement of such holiday.

(3) Any worker to whom a holiday with pay is granted under this Order shall be paid by his employer, before the commencement of such holiday, the holiday remuneration payable to such worker in respect of the whole period of the holiday so granted.

Gratuity  
to casual  
worker.

6.—(1) Any worker who is employed as a casual worker shall, at or before the end of qualifying year, be paid a gratuity by any employer by whom he is so employed if during that qualifying year—

- (a) he has worked for not less than 110 days for his employer; or
- (b) where the number of days of work cannot be ascertained, he has earned, as normal wages from his employer, a sum equivalent to 110 times the established daily rate for the category of work performed by him in an area where there was such established daily rate; or
- (c) where the number of days of work cannot be ascertained and there is no such established daily rate, his name has appeared on the paybills of his employer for not less than twenty weeks.

(2) The minimum gratuity payable to a casual worker under this paragraph shall be 3 per cent of the total wages earned by him during the year in respect which, and in the service of the employer by whom, such gratuity is payable.

Holiday  
remuneration  
and  
gratuity  
on termination  
of employment.

7.—(1) Upon termination of the employment of any worker his employer shall—

- (a) where that worker earned any holiday with pay which was not granted before such termination, pay him a sum equal to the holiday remuneration which would have been payable to him if all such holiday were then being granted; or