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STATUTORY INSTRUMENTS

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**1988 No. 796**

**The Wages (Northern Ireland) Order 1988**

**PART III**

**WAGES COUNCILS**

*Scope of operation of wages councils*

**Continued existence of wages councils after repeal of Wages Councils (Northern Ireland) Order 1982**

**13.**—(1) The Wages Councils (Northern Ireland) Order 1982 shall cease to have effect, but, subject to the following provisions of this part—

- (a) any council in existence immediately before the coming into operation of this part by virtue of an order made or having effect as if made under Article 3 of that Order (establishment of wages councils) shall continue in existence; and
- (b) any order made or having effect as if made under that Article or under Article 6 of that Order (variation of field of operation of wages councils) and then in force in relation to that council shall continue in force; and in this part “wages council” means such a council as is mentioned in sub-paragraph (a).

(2) Subject to the following provisions of this part, there shall be exercisable by such a council, in relation to the workers and employers within its scope of operation by virtue of paragraph (1), the functions conferred on wages councils by this part.

(3) A wages council shall not, however, exercise any functions under this part in relation to workers under the age of 21.

(4) Schedule 2 shall have effect with respect to the constitution, proceedings and officers of a wages council.

**Abolition, or variation of scope of operation, of wages councils**

**14.**—(1) The Department may at any time by order abolish, or vary the scope of operation of, any wages council.

(2) Before making an order under this Article the Department shall have regard to—

- (a) the current levels of remuneration among any workers in relation to whom the wages council concerned would cease to operate, or (as the case may be) begin to operate, as a result of the order, and
- (b) such other matters as appear to it to be appropriate, and shall consult such persons or organisations as appear to it to be appropriate.

(3) An order under this Article may vary the scope of operation of a wages council by reference to any matters or circumstances whatever, and in particular may do so by excluding from its scope of operation employers who are either—

- (a) specified in the order, or
- (b) members of an organisation so specified, or
- (c) represented on an organisation so specified.

(4) Where an order of the Department under this Article abolishes, or varies the scope of operation of, one wages council and directs that any workers previously within the scope of operation of that council shall be brought within the scope of operation of another, the order may—

- (a) provide that anything done by, or to give effect to proposals made by, the first of those councils shall have effect in relation to those workers as if it had been done by, or to give effect to proposals made by, the second of those councils; and
- (b) make such further provisions as appear to the Department to be expedient in connection with the order, including provision for renaming any council to which the order relates.

(5) Where an order of the Department under this Article abolishes a wages council or directs that a wages council shall cease to operate in relation to any workers, then, except as is otherwise provided by the order, anything done by, or to give effect to proposals made by, that wages council shall cease to have effect or (as the case may be) cease to have effect in relation to the workers in relation to whom the council ceases to operate.

(6) Nothing in paragraph (5) shall be construed as affecting any rights or liabilities which have accrued to any person in consequence of anything done or omitted to be done before the coming into operation of the order.

### *Wages orders*

#### **Wages orders**

15.—(1) A wages council may make an order—

- (a) fixing a single minimum hourly rate of remuneration in respect of all the time worked by a worker in any week;
- (b) fixing—
  - (i) a single minimum hourly rate of remuneration in respect of time worked by a worker in any week up to a total amount not exceeding such number of hours as may be fixed by the order (“the basic hours”), and
  - (ii) a single minimum hourly overtime rate of remuneration in respect of time worked by a worker in any week in excess of the basic hours;
- (c) fixing, for the purposes of Article 18(2)(b) and (3)(b), a limit applying to amounts which are deducted from a worker’s remuneration by his employer, or paid by a worker to his employer, in respect of the provision of living accommodation for him by his employer, being a limit framed by reference to the amount recovered by the employer by means of any such deductions or payments in respect of any period of 24 hours for the whole or part of which any such accommodation is so provided.

(2) Any such order may—

- (a) make different provision under paragraph (1) in relation to periods of time beginning with different dates;
- (b) provide for any matter fixed by the order in pursuance of that paragraph to have effect only as from a date later than that on which the order comes into force; but no such order shall provide for a limit fixed in pursuance of sub-paragraph (c) of that paragraph to have effect at a time when no rate or rates fixed in pursuance of sub-paragraph (a) or (b) of that paragraph will have effect under the order.

- (3) Any order made by a wages council under this Article shall apply—
- (a) to all time workers in relation to whom the council operates, and
  - (b) in accordance with the provisions of this part relating to the remuneration of piece workers, to all piece workers in relation to whom the council operates; and shall so apply whether any such workers work on a full-time or part-time basis.
- (4) References in this part to the statutory minimum remuneration provided for a worker by an order under this Article shall, in the case of a time worker to whom such an order applies, be construed as references to the remuneration due under the order in respect of any time worked by him in a week, as determined by the application, in relation to any time so worked—
- (a) of the rate for the time being fixed by the order in pursuance of paragraph (1)(a) or (b)(i); or
  - (b) where a rate is so fixed in pursuance of paragraph (1)(b)(i) and the time so worked exceeds the basic hours, of a combination of that rate (as respects the basic hours) and the rate for the time being fixed by the order in pursuance of paragraph (1)(b)(ii) (as respects any time worked in excess of those hours).
- (5) In this part any reference, in relation to a time worker, to time worked by that worker shall be construed as including a reference to time during which he is required (whether in accordance with his contract or otherwise) to be available for work and is so available at his place of work.
- (6) Before making an order under this Article fixing any such rate as is mentioned in subparagraph (a) or (b)(i) or (ii) of paragraph (1) a wages council shall have regard to—
- (a) the effect that that rate will have on the level of employment among the workers to whom it will apply, and in particular in those areas where the remuneration received by such workers is generally less than the national average for such workers; and
  - (b) such other matters as appear to it to be appropriate.
- (7) An order under this Article may amend or revoke a previous order under this Article, and any such order may, in particular, amend any rate or limit fixed in pursuance of paragraph (1)(b)(ii) or (c) without also amending the rate for the time being fixed in pursuance of paragraph (1)(a) or (b)(i), as the case may be.
- (8) An order under this Article shall not prejudice any rights conferred on any worker by or under any other statutory provision.
- (9) Schedule 3 (supplementary provisions relating to wages orders) shall have effect.

### **Application of wages orders to piece workers**

**16.**—(1) Subject to paragraph (4), references in this part to the statutory minimum remuneration provided for a worker by an order under Article 15 shall, in the case of a piece worker to whom such an order applies, be construed as references to remuneration, in respect of work executed by him, at such one or more piece rates as are appropriate to secure the result mentioned in paragraph (2).

(2) That result is that an ordinary worker executing the work in question would be able to earn, in any given time worked by him in any week, not less than the amount of remuneration due under the order in respect of the time so worked, as determined by the application, in relation to that time, of any such rate or combination of rates as is mentioned in Article 15(4)(a) or (b).

(3) In paragraph (2) the reference to an ordinary worker in relation to any work is a reference to a worker of ordinary competence to execute the work who has no disability affecting the speed at which he is able to execute it.

- (4) In relation to any time during which—
- (a) a piece worker (other than a homemaker) is required, whether in accordance with his contract or otherwise, to be available for work and is so available at his place of work, but

- (b) no work is available to be executed by the worker, references in this part to the statutory minimum remuneration provided for him by an order under Article 15 shall be construed as references to remuneration in respect of any such time at the rate for the time being fixed by the order in pursuance of Article 15(1)(a) or (b)(i).

(5) In the application of paragraph (4) to a piece worker whose remuneration is calculated by reference to items of work executed by a number of workers of whom he is one (“the group”), the reference to the worker in sub-paragraph (b) shall be construed as a reference to the group.

### **Effect and enforcement of wages orders**

**17.**—(1) If, in the case of any worker to whom an order under Article 15 applies, the amount of remuneration paid to the worker by his employer in respect of any week is less than the statutory minimum remuneration provided for him by the order in respect of that week, the worker shall be taken to be entitled under his contract to be paid the difference between those two amounts as additional remuneration in respect of that week.

(2) Any employer who, in respect of any week, fails to pay any worker to whom an order under Article 15 applies an amount of remuneration equal to, or exceeding, the statutory minimum remuneration provided for him by the order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where proceedings are brought in respect of any offence under paragraph (2) and the employer, or any other person charged as a person to whose act or default the offence was due, is found guilty of the offence, the court may (subject to paragraph (5)) order the employer to pay to the worker the appropriate sum in respect of the week in relation to which the offence was committed, and (subject to paragraphs (5) and (6))—

- (a) evidence may be given of any other failure on the part of the employer such as is mentioned in paragraph (2) which occurred, in relation to any week falling within the period of two years ending with the date of the offence, in the case of the worker in relation to whom the offence was committed or in the case of any other worker employed by the employer; and
- (b) on proof of any such failure the court may order the employer to pay to the worker or (as the case may be) to each of the workers in question the appropriate sum in respect of the week in relation to which the failure occurred.

(4) In paragraph (3) “the appropriate sum”, in relation to any worker, means such sum as is found by the court to represent the difference between the following amounts, namely—

- (a) the statutory minimum remuneration provided for the worker in respect of the week in question by the relevant order under Article 15; and
- (b) the amount of remuneration paid to the worker in respect of that week.

(5) A court shall not make an order in the case of any time worker under paragraph (3) in respect of any such offence or failure as is mentioned in that paragraph if—

- (a) the offence was committed or the failure occurred in relation to a week forming part of a cycle of weeks (not exceeding four) during which the time worked by that worker in a week was different in different weeks; and
- (b) the total remuneration paid to that worker in respect of the total time worked by him during the cycle was not less than the aggregate of the statutory minimum remuneration provided for him by the relevant order under Article 15 in respect of the time worked in the constituent weeks of the cycle.

(6) Evidence of any such failure as is mentioned in paragraph (3) may be given under that paragraph only if notice of intention to adduce such evidence has been served with the summons or warrant.

(7) The powers given by this Article for the recovery of sums due from an employer to a worker shall not be in derogation of any right to recover such sums by civil proceedings.

(8) Any reference in this Article, in relation to a worker, to remuneration or statutory minimum remuneration in respect of a week shall be construed as a reference to remuneration or statutory minimum remuneration in respect of the following, namely—

- (a) in the case of a time worker, time worked by the worker in that week; and
- (b) in the case of a piece worker—
  - (i) work executed by the worker in that week, and
  - (ii) any such time as is mentioned in Article 16(4) occurring during that week.

### **Computation of remuneration**

**18.**—(1) For the purpose of determining, for the purposes of this part, the amount of remuneration paid to a time worker by his employer in respect of time worked by the worker in any week there shall be added together—

- (a) the total amount of any money payments made by the employer to the worker, on or before the relevant pay day, by way of remuneration in respect of time worked by him in that week, and
- (b) the total amount of any deductions made by the employer (whether in accordance with part II or not) when making the payment of wages which consisted of or included those money payments, apart from deductions falling to be left out of account under this sub-paragraph by virtue of paragraph (2),

and then, from the aggregate of those amounts, there shall be subtracted the aggregate of—

- (i) the worker's necessary expenditure in connection with his employment to the extent that such expenditure consists of payments to persons other than the employer, is attributable to that week and is not met, or designed to be met, by an allowance paid to him by the employer, and
- (ii) the total amount of any payments received from the worker by the employer (whether in accordance with part II or not) and falling to be taken into account under this sub-paragraph by virtue of paragraph (3).

(2) The following deductions shall be left out of account under paragraph (1)(b), namely—

- (a) any deduction in respect of the worker's necessary expenditure in connection with his employment to the extent that the deduction is attributable to the week in question;
- (b) any deduction in respect of the provision of living accommodation for the worker by the employer to the extent that the deduction exceeds any limit for the time being in force in relation to the worker by virtue of Article 15(1)(c), and
- (c) subject to paragraph (4), any other deduction made by the employer for his own use and benefit (and accordingly not attributable to any amount paid or payable by him to any other person, or to any authority, on behalf of the worker).

(3) The following payments by the worker shall be taken into account under paragraph (1)(ii), namely—

- (a) any payment in respect of the worker's necessary expenditure in connection with his employment to the extent that the payment is attributable to the week in question;
- (b) any payment due from the worker in that week in respect of the provision of living accommodation for him by the employer to the extent that the payment exceeds any limit for the time being in force in relation to the worker by virtue of Article 15(1)(c), and

- (c) subject to paragraph (4), any other payment due from the worker in that week and retained by the employer for his own use and benefit (and accordingly not attributable to any amount paid or payable by him to any other person, or to any authority, on behalf of the worker).
- (4) Paragraphs (2)(c) and (3)(c) do not apply—
- (a) to deductions made or payments received by the employer on account of any of the following matters, namely—
- (i) any conduct of the worker or any other event in respect of which he (whether together with any other workers or not) has any contractual liability,
  - (ii) any advance under an agreement for a loan or any advance of wages, or
  - (iii) the purchase by the worker of any shares or other securities or of any share in a partnership; or
- (b) to deductions made or payments received by the employer on account of any goods or services supplied by the employer with the worker's prior agreement or consent to the extent that any such deductions or payments do not result in the employer recovering from the worker an amount exceeding the cost to the employer of supplying the goods or services in question; and accordingly any such deductions shall not be left out of account under paragraph (1)(b) and any such payments shall not be taken into account under paragraph (1)(ii).
- (5) For the purposes of paragraph (4)(b) the cost to an employer of supplying any goods or services shall—
- (a) where he supplies goods or services of the kind in question in the course of his business, be taken to be the amount which he would have obtained for the goods or services if they had been supplied in the course of that business; and
  - (b) in any other case, be taken to be the amount of expenditure incurred by the employer in connection with the supply by him of the goods or services.
- (6) The preceding provisions of this Article shall apply to a piece worker as they apply to a time worker but as if, in paragraph (1), any reference to remuneration in respect of time worked by the worker in any week were a reference to remuneration in respect of—
- (a) work executed by him in any week, and
  - (b) any such time as is mentioned in Article 16(4) that occurs during the week.
- (7) In this Article—
- “deduction” does not include any such deficiency in the payment of wages as is mentioned in Article 10(3);
- “money payment” means—
- (a) a payment in cash,
  - (b) a payment by cheque or by a money or postal order issued by the Post Office, or
  - (c) a payment (however effected) into any account kept with a bank or other institution;
- “relevant pay day”, in relation to any week of a worker's employment, means the day on which his remuneration in respect of that week is payable;
- “wages” has the same meaning as in part II.

### **Apportionment of remuneration**

- 19.—(1)** This Article applies where—

- (a) in respect of part of the time worked by a time worker in any week (“the relevant period”) the worker is entitled to the statutory minimum remuneration provided for him by an order under Article 15, and
- (b) in respect of the remainder of the time worked by him in the week (“the remaining period”) the worker is not entitled to any such remuneration or is entitled to any such remuneration by virtue of another such order; and in this Article any reference to the worker’s computed remuneration is a reference to the amount of the remuneration paid to the worker in respect of the time worked by him in the week in question as determined in accordance with Article 18.

(2) Subject to paragraphs (3) to (5), the amount of the worker’s computed remuneration that is to be attributed to either the relevant period or the remaining period for the purposes of this part shall, if not apparent from the terms of the worker’s contract, be the amount which bears to the total amount of the worker’s computed remuneration the same proportion as the relevant period, or (as the case may be) the remaining period, bears to the total time worked by the worker in the week in question.

(3) Where any particular amount falling to be added or subtracted under Article 18(1), as it applies to any week, is exclusively referable to the relevant period, the amount of the worker’s computed remuneration to be attributed to that period for the purposes of this part shall be determined by either

- (a) adding the unattributed balance of that particular amount to the amount to be attributed to that period in accordance with paragraph (2), or
- (b) subtracting the unattributed balance of that particular amount from the amount to be attributed to that period in accordance with that paragraph, according to whether that particular amount falls to be added or subtracted under Article 18(1); and a corresponding adjustment shall be made in the amount of the worker’s computed remuneration to be attributed for the purposes of this part to the remaining period.

(4) In paragraph (3) “the unattributed balance”, in relation to the particular amount in question, means so much of that amount as is not taken into account for the purpose of determining the amount to be attributed to the relevant period in accordance with paragraph (2).

(5) Where any particular amount falling to be added or subtracted under Article 18(1), as it applies to any week, is exclusively referable to the remaining period, paragraphs (3) and (4) shall apply to any such particular amount as if—

- (a) any reference to the relevant period were a reference to the remaining period; and
- (b) the reference in paragraph (3) to the remaining period were a reference to the relevant period.

(6) The preceding provisions of this Article shall apply to a piece worker as they apply to a time worker but as if—

- (a) any reference to time worked by the worker in any week were a reference to work executed by him in any week; and
- (b) the word “work” were substituted for the word “period” wherever occurring; and for the purposes of those provisions as they apply to a piece worker in accordance with this paragraph the worker shall be treated as executing work during any such time as is mentioned in Article 16(4).

## *Enforcement*

### **Obligation to keep records, etc.**

**20.**—(1) The employer of any workers to whom an order under Article 15 applies shall keep such records as are necessary to show—

- (a) whether or not the provisions of this part are being complied with in relation to the payment of remuneration to those workers, and
- (b) the amount of any deductions or payments made in the case of those workers in respect of the provision of living accommodation by the employer; and the records shall be retained by the employer for a period of 3 years beginning with the date of the payments or deductions in question.

(2) The employer of any such workers shall post in the prescribed manner such notices as may be prescribed for the purpose of informing the workers—

- (a) of any order under Article 15, or proposal under paragraph 1 of Schedule 3, that affects them; or
- (b) of such other matters (if any) as may be prescribed.

(3) Where any such workers are homeworkers, the employer shall notify them in the prescribed manner of the matters mentioned in paragraph (2).

(4) An employer who fails to comply with any of the requirements of this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Officers**

**21.**—(1) The Department, with the approval of the Department of Finance and Personnel as to numbers and salaries, may appoint officers to act for the purposes of this part.

(2) When acting for the purposes of this part any such officer shall, if so required, produce some duly authenticated document showing his authority so to act; and if it appears to any such officer that any person with whom he is dealing while so acting does not know that he is an officer acting for the purposes of this part he shall identify himself as such to that person.

(3) An officer acting for the purposes of this part shall have power for the performance of his duties—

- (a) to require the production of—
  - (i) wages sheets or other records of remuneration kept by an employer, or
  - (ii) records of payments made to homeworkers by persons giving out work, or
  - (iii) any other records such as are required by this part to be kept by employers, and to inspect and examine those sheets or records and to copy any material part of them;
- (b) to require any person giving out work and any homemaker to give any information which it is in his power to give with respect to the names and addresses of the persons to whom the work is given out or (as the case may be) of the persons from whom work is received by the homemaker, and with respect to the payments made or to be made for the work;
- (c) where the officer has reasonable cause to believe that an order under Article 15 applies to any employer, at all reasonable times to enter any premises at which that employer carries on his business (including any place used, in connection with that business, for giving out work to homeworkers, and any premises which the officer has reasonable cause to believe to be used by, or by arrangement with, the employer to provide living accommodation for workers);



- (d) to inspect and copy any material part of any list of homeworkers kept by an employer or person giving out work to homeworkers;
- (e) to examine (either alone or in the presence of any other person, as he thinks fit) with respect to any matters under this part any person whom he has reasonable cause to believe to be or to have been—
  - (i) a worker to whom an order under Article 15 applies or applied, or
  - (ii) the employer of any such person, or
  - (iii) a servant or agent of any such employer employed in the employer's business, and to require every such person to be so examined, and to sign a declaration of the truth of the matters in respect of which he is so examined; but no person shall be required under sub-paragraph (e) to give any information tending to incriminate that person or, if married, that person's spouse.

(4) Where an officer acting for the purposes of this part has reasonable cause to believe that an order under Article 15 applies to an employer, he may, for the purpose of, or in connection with, the enforcement of that order, by notice in writing require the employer to furnish him with such information as may be specified or described in the notice; and any such notice—

- (a) may specify the way in which, and the time within which, it is to be complied with; and
- (b) may be varied or revoked by a subsequent notice under this paragraph.

(5) An officer acting for the purposes of this part may institute proceedings for any offence under this part and may, although not a barrister or solicitor, conduct any such proceedings.

(6) An officer acting for the purposes of this part and being authorised in that behalf by general or special directions of the Department may, if it appears to him that a sum is due from an employer to a worker on account of the payment to the worker of an amount of remuneration less than the statutory minimum remuneration provided for him by an order under Article 15, institute on behalf of and in the name of the worker civil proceedings for the recovery of that sum; and in any such proceedings the court may make an order for costs to be paid by the officer as if he were a party to the proceedings.

(7) The power conferred by paragraph (6) for the recovery of sums due from an employer to a worker shall not be in derogation of any right of the worker to recover such sums by civil proceedings.

### **Offences in connection with enforcement of part III**

**22.**—(1) Any person who—

- (a) makes, or knowingly either causes or allows to be made, in a record required by this part to be kept by employers any entry which he knows to be false in a material particular, or
- (b) for purposes connected with the preceding provisions of this part produces or furnishes, or knowingly either causes or allows to be produced or furnished, any wages sheet, record, list or information which he knows to be false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any person who—

- (a) intentionally obstructs an officer acting for the purposes of this part in the exercise of any power conferred by Article 21, or
- (b) fails to comply with any requirement of such an officer made in the exercise of any such power, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; but it shall be a defence for a person charged under this paragraph with failing to comply with a requirement to prove that it was not reasonably practicable to do so.

(3) Any person who, in purported compliance with a requirement of a notice under Article 21(4), knowingly or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

*Miscellaneous and supplemental*

**Application of part III to superior employers: liability of employers and others in respect of offences**

23.—(1) Where—

- (a) the immediate employer of a worker is himself in the employment of some other person; and
- (b) the worker is employed on the premises of that other person, that other person shall be deemed for the purposes of this part to be the employer of the worker jointly with the immediate employer.

(2) Where the commission by any person of an offence under Article 17(2) or 20(4) is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(3) In any proceedings for an offence under Article 17(2) or 20(4) it shall be a defence for the person charged to prove that he exercised all due diligence and took all reasonable precautions to secure that the provisions of this part, and of any relevant regulations or order made under it, were complied with by himself and by any person under his control.

**Regulations and orders made by Department under part III**

24.—(1) The Department may make regulations for prescribing anything which by this part is authorised or required to be prescribed.

(2) Any regulations made by the Department under this part and any order made by the Department under Article 14 (other than an order to which paragraph (3) applies) shall be subject to negative resolution.

(3) An order under Article 14 which—

- (a) abolishes a wages council, and
- (b) does not direct that all or any of the workers previously within the scope of operation of that wages council shall be brought within the scope of operation of another wages council, shall not be made by the Department unless a draft of the order has been laid before and approved by a resolution of the Assembly.

(4) Any power conferred by this part to prescribe the manner in which anything is to be published shall include power to prescribe the date which is to be taken for the purposes of this part as the date of publication.

**Interpretation of part III**

25.—(1) In this part—

“employer”, in relation to a worker, means the person by whom the worker is (or, where the employment has ceased, was) employed;

“employers' association” means any organisation representing employers and any association of such organisations or of employers and such organisations;

“employment”, in relation to a worker, means employment under his contract and “employed”, in relation to a worker, accordingly means employed under his contract;

“homeworker” means an individual who—

- (a) contracts with a person, for the purposes of that person’s business, for the execution of work to be done in a place not under the control or management of the person with whom he contracts, and
- (b) does not normally make use of the services of more than two individuals in the carrying out of contracts for the execution of work in relation to which statutory minimum remuneration is provided by any order under Article 15;

“organisation”, in relation to workers, means a trade union and, in relation to employers, means an employers' association;

“piece rate” means a rate where the amount of a worker’s remuneration is to be calculated by reference to the number of items of work executed either by him alone or by a number of workers of whom he is one, and “piece worker” means a worker whose contract provides for the remuneration payable to him in respect of work executed by him to be calculated only by reference to one or more such rates;

“prescribed” means prescribed by regulations made by the Department;

“time worker” means a worker other than a piece worker (whether the worker’s remuneration is determined by reference to the actual number of hours worked by him or not);

“wages council” means such a wages council as is mentioned in Article 13(1)(a);

“week” means—

- (a) in relation to a worker whose remuneration is calculated weekly by a week ending with a day other than Saturday, a week ending with that other day; and
- (b) in relation to any other worker, a week ending with Saturday;

“worker” means (subject to paragraph (2)) an individual who—

- (a) has entered into or works under (or, where the employment has ceased, worked under) one of the contracts referred to in Article 10(2), or
- (b) whether or not he falls within sub-paragraph (a) is a homeworker, and any reference to a worker’s contract shall be construed as a reference to any such contract as is referred to in sub-paragraph (a) or, in the case of a homeworker, to the contract by virtue of which he is a homeworker.

(2) In this part “worker” does not include an individual who is wholly employed otherwise than for the purposes of the business of the person employing him.

(3) Notwithstanding Article 15(3)—

- (a) where a worker is employed partly for the purposes of his employer’s business and partly not, nothing in any order under Article 15 shall apply to the worker in his employment otherwise than for the purposes of that business, and
- (b) where a worker is employed for the purposes of his employer’s business both in an employment to which an order under Article 15 applies and in one to which that order does not apply, nothing in that order shall apply to the worker in the second of those employments.

(4) References in this part to the statutory minimum remuneration provided for a worker by an order under Article 15 shall—

- (a) in relation to a time worker, be construed in accordance with paragraph (4) of that Article, and
- (b) in relation to a piece worker, be construed in accordance with Article 16.