



# Wages Councils Act 1979

## 1979 CHAPTER 12

### PART IV

#### MISCELLANEOUS

##### *Offences and enforcement*

- 21 Criminal liability of agent and superior employer, and special defence open to employer**
- (1) Where the immediate employer of any worker is himself in the employment of some other person and that worker is employed on the premises of that other person, that other person shall for the purposes of Part III and this Part of this Act be deemed to be the employer of that worker jointly with the immediate employer.
  - (2) Where an employer is charged with an offence under Part III or this Part of this Act, he shall be entitled, upon information duly laid by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person to whose act or default he alleges that the offence in question was due brought before the court at the time appointed for the hearing of the charge; and if, after the commission of the offence has been proved, the employer proves that the offence was due to the act or the default of that other person, that other person may be convicted of the offence, and, if the employer further proves that he has used all due diligence to secure that the provisions of Part III and this Part of this Act and any relevant regulation or order made thereunder are complied with, he shall be acquitted of the offence.
  - (3) Where a defendant seeks to avail himself of the provisions of subsection (2) above—
    - (a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him if he gives evidence and any witnesses called by him in support of his pleas and to call rebutting evidence;
    - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

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- (4) Where it appears to an officer acting for the purposes of Part III and this Part of this Act that an offence has been committed in respect of which proceedings might be taken under this Act against an employer, and the officer is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the employer could establish a defence under subsection (2) above, the officer may cause proceedings to be taken against that other person without first causing proceedings to be taken against the employer.

In any such proceedings the defendant may be charged with and, on proof that the offence was due to his act or default, be convicted of, the offence with which the employer might have been charged.

- (5) Subsections (2) to (4) above shall not apply to Scotland, but—
- (a) where an offence for which an employer is, under this Act, liable to a fine was due to an act or default of an agent of the employer or other person, then, whether proceedings are or are not taken against the employer, that agent or other person may be charged with and convicted of the offence, and shall be liable on conviction to the same punishment as might have been inflicted on the employer if he had been convicted of the offence ;
  - (b) where an employer who is charged with an offence under this Act proves to the satisfaction of the court that he has used due diligence to secure compliance with the provisions of Part III and this Part of this Act and any relevant regulation or order made thereunder and that the offence was due to the act or default of some other person, he shall be acquitted of the offence.

## 22 Officers

- (1) The Secretary of State, with the approval of the Minister for the Civil Service as to numbers and salaries, may appoint officers to act for the purposes of Part III and this Part of this Act, and may, in lieu of or in addition to appointing any officers under this section, arrange with any government department that officers of that department shall act for the said purposes.
- (2) Every officer acting for the purposes of Part III and this Part of this Act shall be furnished by the Secretary of State with a certificate of his appointment or authority so to act, and, when so acting, shall, if so required by any person affected, produce the certificate to him.
- (3) An officer acting for the purposes of Part III and this Part of this Act shall have power for the performance of his duties—
  - (a) to require the production of wages sheets or other records of wages kept by an employer, and records of payments made to homeworkers by persons giving out work, and any other such records as are required by this Act to be kept by employers, and to inspect and examine those sheets or records and copy any material part thereof;
  - (b) to require the production of any licence or certificate granted under the Transport Act 1968, and of any records kept in pursuance of Part VI of the Transport Act 1968 or of the applicable Community rules within the meaning of the said Part VI, and to examine any such licence, certificate or records and copy it or them or any material part thereof;
  - (c) to require any person giving out work and any home-worker to give any information which it is in his power to give with respect to the names and

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addresses of the persons to whom the work is given out or from whom the work is received, as the case may be, and with respect to the payments to be made for the work ;

- (d) at all reasonable times to enter any premises at which any employer to whom an order under section 14 above applies 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);
- (e) to inspect and copy any material part of any list of home-workers kept by an employer or person giving out work to homeworkers;
- (f) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under Part III or this Part of this Act, any person whom he has reasonable cause to believe to be or to have been a worker to whom an order under section 14 above applies or applied or the employer of any such person or a servant or agent of the 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:

Provided that no person shall be required under paragraph (f) above to give any information tending to criminate himself or, in the case of a person who is married, his or her wife or husband.

- (4) In England or Wales, an officer acting for the purposes of Part III and this Part of this Act may institute proceedings for any offence under this Act and may, although not of counsel or a solicitor, conduct any such proceedings:

Provided that an officer may not conduct proceedings for an offence under section 24 below unless he instituted those proceedings.

- (5) An officer acting for the purposes of Part III and this Part of this Act who is authorised in that behalf by general or special directions of the Secretary of State may, if it appears to him that a sum is due from an employer to a worker on account of the payment to him of remuneration less than the statutory minimum remuneration, institute on behalf of and in the name of that worker civil proceedings for the recovery of that sum and in any such proceedings the court may make an order for the payment of costs by the officer as if he were a party to the proceedings.

The power given by this subsection 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.

- (6) Any person who obstructs an officer acting for the purposes of Part III and this Part of this Act in the exercise of any power conferred by this section, or fails to comply with any requirement of such an officer made in the exercise of any such power, shall be liable on summary conviction to a fine not exceeding £100:

Provided that it shall be a defence for a person charged under this subsection with failing to comply with a requirement to prove that it was not reasonably practicable to comply therewith.

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## **23 Penalties for false entries in records, producing false records or giving false information**

If any person makes or causes to be made or knowingly allows to be made any entry in a record required by this Act to be kept by employers, which he knows to be false in a material particular, or for purposes connected with Part III or the preceding provisions of this Part of this Act produces or furnishes, or causes or knowingly allows to be produced or furnished, any wages sheet, record, list or information which he knows to be false in a material particular, he shall be liable on summary conviction to a fine not exceeding £400 or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

## **24 Power to obtain information**

- (1) The Secretary of State may, for the purpose of, or in connection with the enforcement of, an order under section 14 above, by notice in writing require an employer within the field of operation of a council making such an order to furnish such information as may be specified or described in the notice.
- (2) A notice under this section may specify the way in which, and the time within which, it is to be complied with, and may be varied or revoked by a subsequent notice so given.
- (3) If a person refuses or wilfully neglects to furnish any information which he has been required to furnish by a notice under subsection (1) above, he shall be liable on summary conviction to a fine not exceeding £100.
- (4) If a person, in purporting to comply with a requirement of a notice under subsection (1) above, knowingly or recklessly makes any false statement he shall be liable on summary conviction to a fine not exceeding £400.
- (5) Section 21 above shall not apply in relation to an offence under this section.
- (6) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (7) Where the affairs of the body corporate are managed by its members, subsection (6) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### *Central co-ordinating committees*

## **25 Central co-ordinating committees**

- (1) The Secretary of State may, if he thinks fit to do so, by order establish a central co-ordinating committee in relation to any two or more wages councils or statutory joint industrial councils, or wages councils and statutory joint industrial councils, or abolish, or vary the field of operation of, any central co-ordinating committee so established:

Provided that, except where subsection (2) or (3) below applies, the Secretary of State shall, before making any such order, consult the wages councils or statutory joint

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industrial councils, or, as the case may be, the wages councils and the statutory joint industrial councils, concerned.

- (2) Where the Service makes a recommendation for the establishment of a wages council or statutory joint industrial council it may include in its report a recommendation for the establishment, in relation to any council established in accordance with the recommendation and any other council (including a council proposed to be established by another recommendation embodied in the same report), of a central co-ordinating committee, or for the variation of the field of operation of an existing central co-ordinating committee so that it operates also in connection with any council established in accordance with the recommendation.
- (3) Where the Service makes a recommendation for the abolition of a wages council or statutory joint industrial council, it may include in its report a recommendation for the variation of the field of operation of an existing central co-ordinating committee so that it no longer operates in relation to the council to be abolished, or a recommendation for the abolition of any central co-ordinating committee theretofore operating in relation to the council to be abolished.
- (4) The Secretary of State may by order give effect to a recommendation made under subsection (2) or (3) above.
- (5) It shall be the duty of any central co-ordinating committee from time to time—
  - (a) to consider whether the field of operation of the councils in relation to which it is established is properly divided as between the councils and to report thereon to the Secretary of State;
  - (b) to make recommendations to the councils with respect to the principles to be followed by them in the exercise of their powers under this Act;
  - (c) to consider any question referred to it by the Secretary of State or by the councils or any two or more of them, and to report thereon to the Secretary of State, or to the councils which referred the question, as the case may be.
- (6) Schedule 2 to this Act shall have effect with respect to the constitution, officers and proceedings of central co-ordinating committees.

*Reports on regulation of terms and conditions of employment*

## **26 Reports by Service on regulation of terms and conditions of employment**

The Service shall, if requested to do so by the Secretary of State—

- (a) inquire into and report on the development by agreement of machinery for the regulation of the remuneration and terms and conditions of employment of workers within the field of operation of a wages council or statutory joint industrial council and the question whether, in order to maintain a reasonable standard of remuneration and terms and conditions of employment of those workers, it is necessary to regulate their remuneration and other terms and conditions of employment by means of orders under section 14 above;
- (b) inquire into and report on the operation generally of this Act;
- (c) publish a report made under paragraph (a) or (b) above.

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*Power to extend wages councils legislation*

**27 Extension of this Act and N.I. legislation**

- (1) Her Majesty may by Order in Council provide that—
- (a) the provisions of this Act, and
  - (b) the provisions of any legislation (that is to say any enactment of the Parliament of Northern Ireland and any provision made by or under a Measure of the Northern Ireland Assembly) for the time being in force in Northern Ireland which makes provision for purposes corresponding to any of the purposes of the provisions of this Act,
- shall, to such extent and for such purposes as may be specified in the Order, apply (with or without modification) to or in relation to any person in employment to which this section applies.
- (2) This section applies to employment for the purposes of any activities—
- (a) in the territorial waters of the United Kingdom; or
  - (b) connected with the exploration of the sea bed or subsoil or the exploitation of their natural resources in any designated area; or
  - (c) connected with the exploration or exploitation, in a foreign sector of the continental shelf, of a cross-boundary petroleum field.
- (3) An Order in Council under subsection (1) above—
- (a) may make different provision for different cases;
  - (b) may provide that all or any of the provisions of any Act mentioned in that subsection, as applied by such an Order, shall apply to individuals whether or not they are British subjects and to bodies corporate whether or not they are incorporated under the law of any part of the United Kingdom (notwithstanding that the application may affect their activities outside the United Kingdom);
  - (c) may make provision for conferring jurisdiction on any court or class of court specified in the Order, or on industrial tribunals, in respect of offences, causes of action or other matters arising in connection with employment to which this section applies;
  - (d) without prejudice to the generality of subsection (1) above or of paragraph (a) above, may provide that the enactments referred to in that subsection shall apply in relation to any person in employment for the purposes of such activities as are referred to in subsection (2) above in any part of the areas specified in paragraphs (a) and (b) of that subsection;
  - (e) may exclude from the operation of section 3 of the Territorial Waters Jurisdiction Act 1878 (consents required for prosecutions) proceedings for offences under the enactments referred to in subsection (1) above in connection with employment to which this section applies;
  - (f) may provide that such proceedings shall not be brought without such consent as may be required by the Order.
- (4) Any jurisdiction conferred on any court or tribunal under this section shall be without prejudice to jurisdiction exercisable apart from this section by that or any other court or tribunal.
- (5) In this section—

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" cross-boundary petroleum field " means a petroleum field that extends across the boundary between a designated area and a foreign sector of the continental shelf;

" designated area " means an area designated under section 1(7) of the Continental Shelf Act 1964 ;

" foreign sector of the continental shelf " means an area which is outside the territorial waters of any State and within which rights are exercisable by a State other than the United Kingdom with respect to the sea bed and subsoil and their natural resources ;

" petroleum field " means a geological structure identified as an oil or gas field by the Order in Council concerned.

### *Supplemental*

## **28 Interpretation**

In this Act—

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

" homeworkers " means a person who 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 who does not normally make use of the services of more than two persons in the carrying out of contracts for the execution of work with statutory minimum remuneration;

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

" prescribed " means prescribed by regulations made by the Secretary of State;

" the Service " means the Advisory, Conciliation and Arbitration Service;

" statutory joint industrial council " means a council established by an order made under section 10 above ;

" statutory minimum remuneration " means remuneration (including holiday remuneration) fixed by an order made under section 14 above;

" statutory provision " means a provision contained in or having effect under any enactment;

" superannuation scheme " means any enactment, rules, deed or other instrument, providing for the payment of annuities or lump sums to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise, whether with or without any further or other benefits ;

" thrift scheme " means any arrangement for savings, for providing money for holidays or for other purposes, under which a worker is entitled to receive in cash sums equal to or greater than the aggregate of any sums deducted from his remuneration or paid by him for the purposes of the scheme ;

" time rate " means a rate where the amount of the remuneration is to be calculated by reference to the actual number of hours worked;

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" trade union " has the meaning given by section 28 of the Trade Union and Labour Relations Act 1974 ;

" wages council" means a wages council established by an order under section 1 above ;

" worker " means any person—

- (a) who has entered into or works under a contract with an employer (whether express or implied, and, if express, whether oral or in writing) whether it be a contract of service or of apprenticeship or any other contract whereby he undertakes to do or perform personally any work or services for another party to the contract who is not a professional client of his; or
- (b) whether or not he falls within the foregoing provision, who is a homemaker;

but does not include any person who is employed casually and otherwise than for the purposes of the business of the employer or other party to the contract;

" work with statutory minimum remuneration " means work of a description for which, when executed by a worker, statutory minimum remuneration is provided under Part III of this Act.

## **29 Orders and regulations**

- (1) The Secretary of State may make regulations for prescribing anything which by this Act is authorised or required to be prescribed.
- (2) Any power to make orders or regulations conferred on the Secretary of State by this Act shall be exercisable by statutory instrument
- (3) Any statutory instrument containing any order of the Secretary of State made under Part I or II of this Act or regulations made under any of the provisions of this Act shall (together, in the case of an order, with any report of the Service relating thereto) be laid before Parliament after being made, and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any power conferred by this Act 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 Act as the date of publication.

## **30 Expenses**

The expenses of the Secretary of State in carrying this Act into effect, and any expenses authorised by the Secretary of State with the consent of the Treasury to be incurred by a wages council, the Service, or a central co-ordinating committee established under this Act by order of the Secretary of State, shall be defrayed out of moneys provided by Parliament.

## **31 Transitional provisions, amendments and repeals**

- (1) The transitional provisions and savings in Schedule 5 to this Act shall have effect, but nothing in that Schedule shall be construed as prejudicing section 16 of the Interpretation Act 1978 (effect of repeals).
- (2) The enactments specified in Schedule 6 to this Act shall have effect subject to the amendments specified in that Schedule.



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- (3) The enactments specified in the first column of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**32 Short title, commencement and extent**

- (1) This Act may be cited as the Wages Councils Act 1979.
- (2) This Act shall come into force on the expiry of the period of one month beginning with the date on which it is passed.
- (3) This Act, except section 27, paragraphs 4 and 5 of Schedule 6 and the repeal of section 127(1)(a) of the Employment Protection Act 1975 provided for in Schedule 7, shall not extend to Northern Ireland.