



# Wages Act 1986

## 1986 CHAPTER 48

An Act to make fresh provision with respect to the protection of workers in relation to the payment of wages; to make further provision with respect to wages councils; to restrict redundancy rebates to employers with less than ten employees and to abolish certain similar payments; and for connected purposes. [25th July 1986]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### PROTECTION OF WORKERS IN RELATION TO THE PAYMENT OF WAGES

#### **1 General restrictions on deductions made, or payments received, by employers**

- (1) An employer shall not make any deduction from any wages of any worker employed by him unless the deduction satisfies one of the following conditions, namely—
  - (a) it is required or authorised to be made by virtue of any statutory provision or any relevant provision of the worker's contract; or
  - (b) the worker has previously signified in writing his agreement or consent to the making of it.
- (2) An employer shall not receive any payment from any worker employed by him unless the payment satisfies one of the conditions set out in paragraphs (a) and (b) of subsection (1).
- (3) In this section "relevant provision", in relation to a worker's contract, means any provision of the contract comprised—
  - (a) in one or more written terms of the contract of which the employer has given the worker a copy on any occasion prior to the employer making the

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deduction in question, or (where subsection (1)(a) applies for the purposes of subsection (2)) prior to his receiving the payment in question, or

- (b) in one or more terms of the contract (whether express or implied and, if express, whether oral or in writing) whose existence and effect, or (as the case may be) combined effect, in relation to the worker the employer has notified to the worker in writing on any such occasion.

(4) For the purposes of this section—

- (a) any relevant provision of a worker's contract having effect by virtue of any variation of the contract, or
- (b) any agreement or consent signified by a worker as mentioned in subsection (1) (b),

shall not operate to authorise the making of any deduction, or the receipt of any payment, on account of any conduct of the worker, or any other event occurring, before the variation took effect or (as the case may be) the agreement or consent was signified.

(5) Nothing in this section applies—

- (a) to any deduction from a worker's wages made by his employer, or any payment received from a worker by his employer, where the purpose of the deduction or payment is the reimbursement of the employer in respect of—

- (i) any overpayment of wages, or
- (ii) any overpayment in respect of expenses incurred by the worker in carrying out his employment,

made (for any reason) by the employer to the worker ;

- (b) to any deduction from a worker's wages made by his employer, or any payment received from a worker by his employer, in consequence of any disciplinary proceedings if those proceedings were held by virtue of any statutory provision;
- (c) to any deduction from a worker's wages made by his employer in pursuance of any requirement imposed on the employer by any statutory provision to deduct and pay over to a public authority amounts determined by that authority as being due to it from the worker, if the deduction is made in accordance with the relevant determination of that authority ;
- (d) to any deduction from a worker's wages made by his employer in pursuance of any arrangements which have been established—
  - (i) in accordance with any relevant provision of his contract to whose inclusion in the contract the worker has signified his agreement or consent in writing, or
  - (ii) otherwise with the prior agreement or consent of the worker signified in writing,

and under which the employer is to deduct and pay over to a third person amounts notified to the employer by that person as being due to him from the worker, if the deduction is made in accordance with the relevant notification by that person;

- (e) to any deduction from a worker's wages made by his employer, or any payment received from a worker by his employer, where the worker has taken part in a strike or other industrial action and the deduction is made, or the payment has been required, by the employer on account of the worker's having taken part in that strike or other action ; or
- (f) to any deduction from a worker's wages made by his employer with his prior agreement or consent signified in writing, or any payment received from a

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worker by his employer, where the purpose of the deduction or payment is the satisfaction (whether wholly or in part) of an order of a court or tribunal requiring the payment of any amount by the worker to the employer.

- (6) This section is without prejudice to any other statutory provision by virtue of which any sum payable to a worker by his employer but not falling within the definition of "wages" in section 7 is not to be subject to any deduction at the instance of the employer.

## **2 Deductions from wages of workers in retail employment on account of cash shortages etc.**

- (1) Where (in accordance with section 1(1)) the employer of a worker in retail employment makes, on account of one or more cash shortages or stock deficiencies, any deduction or deductions from any wages payable to the worker on a pay day, the amount or aggregate amount of the deduction or deductions shall not exceed one-tenth of the gross amount of the wages payable to the worker on that day.

- (2) In this Part—

"cash shortage" means a deficit arising in relation to amounts received in connection with retail transactions;

"pay day", in relation to a worker, means a day on which wages are payable to the worker;

"retail employment", in relation to a worker, means employment involving (whether on a regular basis or not)—

- (a) the carrying out by the worker of retail transactions directly with members of the public or with fellow workers or other individuals in their personal capacities, or
- (b) the collection by the worker of amounts payable in connection with retail transactions carried out by other persons directly with members of the public or with fellow workers or other individuals in their personal capacities;

"retail transaction" means the sale or supply of goods, or the supply of services (including financial services); and

"stock deficiency" means a stock deficiency arising in the course of retail transactions.

- (3) Where the employer of a worker in retail employment makes a deduction from the worker's wages on account of a cash shortage or stock deficiency, the employer shall not be treated as making the deduction in accordance with section 1(1) unless (in addition to the requirements of that provision being satisfied with respect to the deduction)—

- (a) the deduction is made, or
- (b) in the case of a deduction which is one of a series of deductions relating to the shortage or deficiency, the first deduction in the series was made,

not later than the end of the period of 12 months beginning with the date when the employer established the existence of the shortage or deficiency or (if earlier) the date when he ought reasonably to have done so.

- (4) This subsection applies where—

- (a) by virtue of any agreement between a worker in retail employment and his employer, the amount of the worker's wages or any part of them is or

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may be determined by reference to the incidence of cash shortages or stock deficiencies, and

- (b) the gross amount of the wages payable to the worker on any pay day is, on account of any such shortages or deficiencies, less than the gross amount of the wages that would have been payable to him on that day if there had been no such shortages or deficiencies.

(5) In a case where subsection (4) applies—

- (a) the amount representing the difference between the two amounts referred to in paragraph (b) of that subsection ("the relevant amount") shall be treated for the purposes of this Part as a deduction from the wages payable to the worker on that day made by the employer on account of the cash shortages or stock deficiencies in question, and
- (b) the second of the amounts so referred to shall be treated for the purposes of this Part (except subsection (4)) as the gross amount of the wages payable to him on that day;

and section 1(1) and (if the requirements of that provision and subsection (3) above are satisfied) subsection (1) above shall have effect in relation to the relevant amount accordingly.

### **3 Payments by workers in retail employment on account of cash shortages etc.**

(1) Where the employer of a worker in retail employment receives from the worker any payment on account of a cash shortage or stock deficiency the employer shall not be treated as receiving the payment in accordance with section 1(2) unless (in addition to the requirements of that provision being satisfied with respect to the payment) he has previously—

- (a) notified the worker in writing of the worker's total liability to him in respect of that shortage or deficiency; and
- (b) required the worker to make the payment by means of a demand for payment made in accordance with this section.

(2) Any demand for payment made by the employer of a worker in retail employment in respect of a cash shortage or stock deficiency—

- (a) shall be made in writing, and
- (b) shall be made on one of the worker's pay days.

(3) A demand for payment in respect of a particular cash shortage or stock deficiency, or (in the case of a series of such demands) the first such demand, shall not be made—

- (a) earlier than the first pay day of the worker following the date when he is notified of his total liability in respect of the shortage or deficiency in pursuance of subsection (1)(a) or, where he is so notified on a pay day, earlier than that day, or
- (b) later than the end of the period of 12 months beginning with the date when the employer established the existence of the shortage or deficiency or (if earlier) the date when he ought reasonably to have done so.

(4) Where the employer of a worker in retail employment makes on any pay day one or more demands for payment in accordance with this section, the amount or aggregate amount required to be paid by the worker in pursuance of the demand or demands shall not exceed—

- (a) one-tenth of the gross amount of the wages payable to the worker on that day, or
  - (b) where one or more deductions falling within section 2(1) are made by the employer from those wages, such amount as represents the balance of that one-tenth after subtracting the amount or aggregate amount of the deduction or deductions.
- (5) Once any amount has been required to be paid by means of a demand for payment made in accordance with this section on any pay day, that amount shall not be taken into account under subsection (4) as it applies to any subsequent pay day, notwithstanding that the employer is obliged to make further requests for it to be paid.
- (6) For the purposes of this Part a demand for payment shall be treated as made by the employer on one of the worker's pay days if it is given to the worker, or posted to, or left at, his last known address—
- (a) on that pay day, or
  - (b) in the case of a pay day which is not a working day of the employer's business, on the first such working day following that pay day.

#### **4 Provisions supplementary to ss. 2 and 3**

- (1) In this section " final instalment of wages ", in relation to a worker, means—
- (a) the amount of wages payable to the worker which consists of or includes an amount payable by way of contractual remuneration in respect of the last of the periods for which he is employed under his contract prior to its termination for any reason (but excluding any wages referable to any earlier such period), or
  - (b) where an amount in lieu of notice is paid to the worker later than the amount referred to in paragraph (a), the amount so paid,
- in each case whether the amount in question is paid before or after the termination of the worker's contract.
- (2) Section 2(1) shall not operate to restrict the amount of any deductions that may (in accordance with section 1(1)) be made by the employer of a worker in retail employment from the worker's final instalment of wages.
- (3) Nothing in section 3 shall apply to any payment falling within subsection (1) of that section that is made on or after the day on which any such worker's final instalment of wages is paid, but (notwithstanding that the requirements of section 1(2) would otherwise be satisfied with respect to it) his employer shall not be treated as receiving any such payment in accordance with section 1(2) if the payment was first required to be made after the end of the period referred to in section 3(3)(b).
- (4) Legal proceedings by the employer of a worker in retail employment for the recovery from the worker of any amount in respect of a cash shortage or stock deficiency shall not be instituted by the employer after the end of the period referred to in section 3(3) (b) unless the employer has within that period made a demand for payment in respect of that amount in accordance with section 3.
- (5) Where in any legal proceedings the court finds that the employer of a worker in retail employment is (in accordance with section 1(2), as it applies apart from section 3(1)) entitled to recover an amount from the worker in respect of a cash shortage or stock deficiency, the court shall, in ordering the payment by the worker to the employer of that amount, make such provision as appears to the court to be necessary to ensure

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that it is paid by the worker at a rate not exceeding that at which it could be recovered from him by the employer in accordance with section 3.

This subsection does not apply to any amount which is to be paid by a worker on or after the day on which his final instalment of wages is paid.

- (6) References in this Part to a deduction made from any wages of a worker in retail employment, or to a payment received from such a worker by his employer, on account of a cash shortage or stock deficiency include references to a deduction or payment so made or received on account of—
- (a) any dishonesty or other conduct on the part of the worker which resulted in any such shortage or deficiency, or
  - (b) any other event in respect of which he (whether together with any other workers or not) has any contractual liability and which so resulted,
- in each case whether the amount of the deduction or payment is designed to reflect the exact amount of the shortage or deficiency or not; and references in this Part to the recovery from a worker of an amount in respect of a cash shortage or stock deficiency accordingly include references to the recovery from him of an amount in respect of any such conduct or event as is mentioned in paragraph (a) or (b).

## **5 Complaints to industrial tribunals in respect of unauthorised deductions etc.**

- (1) A worker may present a complaint to an industrial tribunal—
- (a) that his employer has made a deduction from his wages in contravention of section 1(1) (including a deduction made in contravention of that provision as it applies by virtue of section 2(3)), or
  - (b) that his employer has received from him a payment in contravention of section 1(2) (including a payment received in contravention of that provision as it applies by virtue of section 3(1)), or
  - (c) that his employer has recovered from his wages by means of one or more deductions falling within section 2(1) an amount or aggregate amount exceeding the limit applying to the deduction or deductions under that provision, or
  - (d) that his employer has received from him in pursuance of one or more demands for payment made (in accordance with section 3) on a particular pay day, a payment or payments of an amount or aggregate amount exceeding the limit applying to the demand or demands under section 3(4).
- (2) An industrial tribunal shall not entertain a complaint under this section unless it is presented within the period of three months beginning with—
- (a) in the case of a complaint relating to a deduction by the employer, the date of payment of the wages from which the deduction was made, or
  - (b) in the case of a complaint relating to a payment received by the employer, the date when the payment was received,
- or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the relevant period of three months.
- (3) Where a complaint is brought in respect of—
- (a) a series of deductions or payments, or

- (b) a number of payments falling within subsection (1)(d) and made in pursuance of demands for payment subject to the same limit under section 3(4) but received by the employer on different dates,  
subsection (2) shall be read as referring to the last deduction or payment in the series or to the last of the payments so received (as the case may require).
- (4) Where a tribunal finds that a complaint under this section is well-founded, it shall make a declaration to that effect; and subject to subsections (5) and (6)—
- (a) in the case of a complaint under subsection (1)(a) or (b), the tribunal shall order the employer to pay to the worker the amount of any deduction, or to repay to him the amount of any payment, made or received in contravention of section 1; and
- (b) in the case of a complaint under subsection (1)(c) or (d), the tribunal shall order the employer to pay or (as the case may be) repay to the worker any amount recovered or received from him in excess of any such limit as is mentioned in that provision.
- (5) Where, in the case of any complaint under subsection (1)(a) or (b), a tribunal finds that, although neither of the conditions set out in section 1(1)(a) and (b) was satisfied with respect to the whole amount of a deduction or payment, one of those conditions was satisfied with respect to any lesser amount, the amount of the deduction or payment shall for the purposes of subsection (4)(a) be treated as reduced by the amount with respect to which that condition was satisfied.
- (6) An employer shall not under subsection (4)(a) or (b) be ordered by a tribunal to pay or repay to a worker any amount in respect of a deduction or payment, or (as the case may be) in respect of any combination of deductions or payments, in so far as it appears to the tribunal that he has already paid or repaid any such amount to the worker.
- (7) Where a tribunal has under subsection (4)(a) or (b) ordered an employer to pay or repay to a worker any amount in respect of a particular deduction or payment falling within subsection (1)(a) to (d) ("the relevant amount") the amount which the employer shall be entitled to recover (by whatever means) in respect of the matter in respect of which the deduction or payment was originally made or received shall be treated as reduced by the relevant amount.
- (8) Where a tribunal has under subsection (4)(b) ordered an employer to pay or repay to a worker any amount in respect of any combination of deductions or payments falling within subsection (1)(c) or (d) ("the relevant amount") the aggregate amount which the employer shall be entitled to recover (by whatever means) in respect of the cash shortages or stock deficiencies in respect of which the deductions or payments were originally made or required to be made shall be treated as reduced by the relevant amount.

## **6 Supplementary provisions relating to complaints**

- (1) The remedy of a worker in respect of any contravention of section 1(1) or (2) or section 2(1) or 3(4) shall be by way of a complaint under section 5 and not otherwise.
- (2) Section 5 shall not affect the jurisdiction of an industrial tribunal to entertain a reference under section 11 of the 1978 Act in relation to any deduction from the wages of a worker, but the aggregate of any amounts ordered by an industrial tribunal to be paid under section 11(8)(b) of that Act and under subsection (4) of section 5 of this

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Act (whether on the same or different occasions) in respect of a particular deduction shall not exceed the amount of the deduction.

- (3) Any provision in an agreement shall be void in so far as it purports to exclude or limit the operation of any provision of this Part, or to preclude any person from presenting a complaint under section 5 ; but this subsection shall not apply to an agreement to refrain from presenting or continuing with a complaint where a conciliation officer has taken action in accordance with section 133(2) or (3) of the 1978 Act.

## 7 **Meaning of " wages "**

- (1) In this Part " wages ", in relation to a worker, means any sums payable to the worker by his employer in connection with his employment, including—
- (a) any fee, bonus, commission, holiday pay or other emolument referable to his employment, whether payable under his contract or otherwise ;
  - (b) any sum payable in pursuance of an order for reinstatement or re-engagement under section 69 of the 1978 Act;
  - (c) any sum payable by way of pay in pursuance of an order under section 77 of that Act for the continuation of a contract of employment;
  - (d) any of the payments referred to in paragraphs (a) to (d) of section 122(4) of that Act (guarantee payments and other statutory payments in lieu of wages);
  - (e) statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982 ; and
  - (f) in the case of a female worker, maternity pay under Part III of the 1978 Act, but excluding any payments falling within subsection (2).
- (2) Those payments are—
- (a) any payment by way of an advance under an agreement for a loan or by way of an advance of wages (but without prejudice to the application of section 1(1) to any deduction made from the worker's wages in respect of any such advance);
  - (b) any payment in respect of expenses incurred by the worker in carrying out his employment;
  - (c) any payment by way of a pension, allowance or gratuity in connection with the worker's retirement or as compensation for loss of office ;
  - (d) any payment referable to the worker's redundancy ;
  - (e) any payment to the worker otherwise than in his capacity as a worker.
- (3) Where any payment in the nature of a non-contractual bonus is (for any reason) made to a worker by his employer, then, for the purposes of this Part, the amount of the payment shall—
- (a) be treated as wages of the worker, and
  - (b) be treated as payable to him as such on the day on which the payment is made.
- (4) For the purposes of this Part any monetary value attaching to any payment or benefit in kind furnished to a worker by his employer shall not be treated as wages of the worker except in the case of any voucher, stamp or similar document which is—
- (a) of a fixed value expressed in monetary terms, and
  - (b) capable of being exchanged (whether on its own or together with other vouchers, stamps or documents, and whether immediately or only after a time) for money, goods or services (or for any combination of two or more of those things).

## **8 General interpretation of Part I**

(1) In this Part—

" the 1978 Act" means the Employment Protection (Consolidation) Act 1978 ;

" cash shortage " has the meaning given by section 2(2);

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

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

"gross amount", in relation to any wages payable to a worker, means the total amount of those wages before deductions of whatever nature ;

" pay day ", " retail employment" and " retail transaction " have the meaning given by section 2(2);

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

" stock deficiency " has the meaning given by section 2(2);

" wages " shall be construed in accordance with section 7 ;

" worker " means an individual who has entered into or works under (or, where the employment has ceased, worked under) one of the contracts referred to in subsection (2), and any reference to a worker's contract shall be construed accordingly.

(2) Those contracts are—

(a) a contract of service ;

(b) a contract of apprenticeship ; and

(c) any other contract whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual,

in each case whether such a contract is express or implied and, if express, whether it is oral or in writing.

(3) Where the total amount of any wages that are paid on any occasion by an employer to any worker employed by him is less than the total amount of the wages that are properly payable by him to the worker on that occasion (after deductions) then, except in so far as the deficiency is attributable to an error of computation, the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion.

(4) In subsection (3) the reference to an error of computation is a reference to an error of any description on the part of the employer affecting the computation by him of the gross amount of the wages that are properly payable by him to the worker on that occasion.

(5) Any reference in this Part to an employer receiving a payment from a worker employed by him is a reference to his receiving such a payment in his capacity as the worker's employer.

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## **9 Crown employment**

- (1) Subject to subsection (4), this Part shall apply to Crown employment.
- (2) In this section " Crown employment " means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by any statutory provision.
- (3) Without prejudice to the generality of subsection (2), " Crown employment" includes employment by any of the bodies specified in Schedule 5 to the 1978 Act (National Health Service employers).
- (4) This Part does not apply to service as a member of the naval, military or air forces of the Crown, but does apply to employment by any association established for the purposes of Part VI of the Reserve Forces Act 1980.
- (5) For the purposes of the application of this Part to Crown employment in accordance with subsection (1)—
  - (a) any reference to a worker shall be construed as a reference to a person in Crown employment;
  - (b) any reference to a worker's contract shall be construed as a reference to the terms of employment of a person in Crown employment;
  - (c) any reference to the termination of a worker's contract shall be construed as a reference to the termination of his Crown employment; and
  - (d) any reference to redundancy shall be construed as a reference to the existence of such circumstances as, in accordance with any arrangements for the time being in force as mentioned in section 111(3) of the 1978 Act (payments equivalent to redundancy payments in respect of civil servants etc.), are treated as equivalent to redundancy in relation to Crown employment.

## **10 Power to extend provisions to employment outside United Kingdom**

- (1) Section 137 of the 1978 Act (power to extend employment legislation to employment for purposes of activities in territorial waters etc.) shall apply in relation to this Part as it applies in relation to the enactments referred to in subsection (1) of that section, but as if—
  - (a) any reference to employment were a reference to employment within the meaning of this Part; and
  - (b) subsection (3)(g) of that section were omitted.
- (2) Any Order in Council made by virtue of subsection (1) above may modify or exclude the operation of any provision of section 30 of this Act (as it applies to this Part) in relation to persons to whom the Order applies.

## **11 Repeal of Truck Acts 1831 to 1940 etc.**

The enactments listed in Schedule 1 to this Act (which impose restrictions in relation to the payment of wages to manual and other workers and make other provision in connection with the payment of wages to such persons) shall cease to have effect.

## PART II

### WAGES COUNCILS

#### *Scope of operation of wages councils*

#### **12 Continued existence of wages councils after repeal of Wages Councils Act 1979**

- (1) The Wages Councils Act 1979 shall cease to have effect, but, subject to the following provisions of this Part—
  - (a) any council in existence immediately before the commencement of this section by virtue of an order made or having effect as if made under section 1 of that Act (establishment of wages councils) shall continue in existence; and
  - (b) any order made or having effect as if made under that section or under section 4 of that Act (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 (except where the context requires otherwise) "wages council" means such a council as is mentioned in 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 subsection (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.

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

- (1) The Secretary of State may at any time by order abolish, or vary the scope of operation of, any wages council.
- (2) Before making an order under this section the Secretary of State 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 him to be appropriate,and shall consult such persons or organisations as appear to him to be appropriate.
- (3) An order under this section 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 Secretary of State under this section 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—

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- (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 Secretary of State 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 Secretary of State under this section 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 subsection (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*

## **14 Wages orders**

- (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 section 17(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 subsection (1) in relation to periods of time beginning with different dates;
  - (b) provide for any matter fixed by the order in pursuance of that subsection 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 paragraph (c) of that subsection to have effect at a time when no rate or rates fixed in pursuance of paragraph (a) or (b) of that subsection will have effect under the order.
- (3) Any order made by a wages council under this section 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 section 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 subsection (1)(a) or (b)(i); or
  - (b) where a rate is so fixed in pursuance of subsection (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 subsection (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 section fixing any such rate as is mentioned in paragraph (a) or (b)(i) or (ii) of subsection (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 section may amend or revoke a previous order under this section, and any such order may, in particular, amend any rate or limit fixed in pursuance of subsection (1)(b)(ii) or (c) without also amending the rate for the time being fixed in pursuance of subsection (1)(a) or (b)(i), as the case may be.
- (8) An order under this section shall not prejudice any rights conferred on any worker by or under any other enactment.
- (9) Schedule 3 (supplementary provisions relating to wages orders) shall have effect.

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

- (1) Subject to subsection (4), references in this Part to the statutory minimum remuneration provided for a worker by an order under section 14 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 subsection (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 section 14(4)(a) or (b).

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- (3) In subsection (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 section 14 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 section 14(1)(a) or (b)(i).
- (5) In the application of subsection (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 paragraph (b) shall be construed as a reference to the group.

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

- (1) If, in the case of any worker to whom an order under section 14 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 section 14 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 the third level on the standard scale.
- (3) Where proceedings are brought in respect of any offence under subsection (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 subsection (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 subsections (5) and (6))—
- (a) evidence may be given of any other failure on the part of the employer such as is mentioned in subsection (3) 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 subsection (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 section 14; 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 subsection (3) in respect of any such offence or failure as is mentioned in that subsection 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 section 14 in respect of the time worked in the constituent weeks of the cycle.
- (6) Evidence of any such failure as is mentioned in subsection (3) may be given under that subsection only if notice of intention to adduce such evidence has been served with the summons or warrant.
- (7) The powers given by this section 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 section, 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 section 15(4) occurring during that week.
- (9) In the application of this section to Scotland—
- (a) in subsection (3), the words ", or any other person charged as a person to whose act or default the offence was due," shall be omitted ; and
  - (b) in subsection (6), for " summons or warrant" there shall be substituted " complaint ".

## **17 Computation of remuneration**

- (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 I 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 paragraph by virtue of subsection (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

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- 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 I or not) and falling to be taken into account under this paragraph by virtue of subsection (3).
- (2) The following deductions shall be left out of account under subsection (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 section 14(1)(c), and
  - (c) subject to subsection (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 subsection (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 section 14(1)(c), and
  - (c) subject to subsection (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) Subsections (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 subsection (1)(b) and any such payments shall not be taken into account under subsection (1)(ii).

- (5) For the purposes of subsection (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 section shall apply to a piece worker as they apply to a time worker but as if, in subsection (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 section 15(4) that occurs during the week.
- (7) In this section—
- " deduction " does not include any such deficiency in the payment of wages as is mentioned in section 8(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 I.

## **18 Apportionment of remuneration**

- (1) This section 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 section 14, 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 section 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 section 17.
- (2) Subject to subsections (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 section 17(1), as it applies to any week, is exclusively referable to the relevant period, the amount of

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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 subsection (2) above, or
- (b) subtracting the unattributed balance of that particular amount from the amount to be attributed to that period in accordance with that subsection,

according to whether that particular amount falls to be added or subtracted under section 17(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 subsection (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 subsection (2).
- (5) Where any particular amount falling to be added or subtracted under section 17(1), as it applies to any week, is exclusively referable to the remaining period, subsections (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 subsection (3) to the remaining period were a reference to the relevant period.
- (6) The preceding provisions of this section 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 subsection the worker shall be treated as executing work during any such time as is mentioned in section 15(4).

### *Enforcement*

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

- (1) The employer of any workers to whom an order under section 14 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 section 14, 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 subsection (2).
- (4) An employer who fails to comply with any of the requirements of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.

## **20 Officers**

- (1) The Secretary of State, with the approval of the Treasury as to numbers and salaries, may appoint officers to act for the purposes of this Part, and may, instead of or in addition to appointing any officers under this section, arrange with any government department that officers of that department shall act for those purposes.
- (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 section 14 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 section 14 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,

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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 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 section 14 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 subsection.
- (5) In England or Wales, 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 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 the worker of an amount of remuneration less than the statutory minimum remuneration provided for him by an order under section 14, 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 (or, in Scotland, expenses) to be paid by the officer as if he were a party to the proceedings.
- (7) The power conferred by subsection (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.

## **21 Offences in connection with enforcement of Part II**

- (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 the fifth level on the standard scale.

- (2) Any person who—
  - (a) intentionally obstructs an officer acting for the purposes of this Part of this Act in the exercise of any power conferred by section 20, 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 the third level on the standard scale ; but 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 do so.

- (3) Any person who, in purported compliance with a requirement of a notice under section 20(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 the fifth level on the standard scale.

#### *Miscellaneous and supplemental*

### **22 Application of Part II to superior employers: liability of employers and others in respect of offences**

- (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 section 16(2) or 19(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 subsection whether or not proceedings are taken against the first-mentioned person.
- (3) In any proceedings for an offence under section 16(2) or 19(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.

### **23 Offences by bodies corporate**

- (1) Where an offence under this Part which has been 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 purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of the body corporate are managed by its members, subsection (1) 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.

### **24 Transitory provisions relating to existing wages councils and wages orders**

- (1) As from the date of the passing of this Act
  - (a) a wages council within the meaning of the Wages Councils Act 1979 shall not exercise any functions under that Act; and
  - (b) the following provisions of this section shall apply to any wages order in force on that date under section 14 of that Act (" an existing order ").

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- (2) An existing order shall, subject to the following provisions of this section, continue in force until whichever is the later of the following times, namely—
- (a) the end of the period of six months beginning with the date of the passing of this Act, and
  - (b) the end of the period of twelve months beginning with the date of the coming into force of the order,
- and shall so continue in force notwithstanding the repeal of that Act by section 12 of this Act.
- (3) If, before the later of those times, there comes into force an order made under section 14 of this Act by the wages council that made the existing order, the existing order shall cease to have effect at that time.
- (4) The Secretary of State may by order—
- (a) provide for all or any of the provisions of any existing order to cease to have effect;
  - (b) restrict the operation of all or any of the provisions of any such order by reference to any matters or circumstances whatever.
- (5) As from the date of the passing of this Act nothing in any existing order shall apply to workers under the age of 21.

## **25 Regulations and orders made by Secretary of State under Part II**

- (1) The Secretary of State may make regulations for prescribing anything which by this Part is authorised or required to be prescribed.
- (2) Any power to make an order or regulations conferred on the Secretary of State by this Part shall be exercisable by statutory instrument.
- (3) A statutory instrument containing—
- (a) an order made by the Secretary of State under section 13 (other than an order to which subsection (4) below applies) or under section 24(4), or
  - (b) any regulations made by him under this Part,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) No order to which this subsection applies shall be made by the Secretary of State unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (5) Subsection (4) applies to an order under section 13 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.
- (6) A draft of such an order which would, apart from the provisions of this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument shall proceed in that House as if it were not such an instrument.

- (7) 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.

## 26 Interpretation of Part II

- (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 section 14 ;

" 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 Secretary of State;

" 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" (except where the context requires otherwise) means such a wages council as is mentioned in section 12(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 subsection (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 section 8(2), or
- (b) whether or not he falls within paragraph above, is a homeworker,

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and any reference to a worker's contract shall be construed as a reference to any such contract as is referred to in paragraph (a) above or, in the case of a home-worker, 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 section 14(3)—
  - (a) where a worker is employed partly for the purposes of his employer's business and partly not, nothing in any order under section 14 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 section 14 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 section 14 shall—
  - (a) in relation to a time worker, be construed in accordance with subsection (4) of that section, and
  - (b) in relation to a piece worker, be construed in accordance with section 15.

### PART III

#### REDUNDANCY REBATES, ETC.

#### **27 Restriction of redundancy rebates to employers with less than ten employees**

- (1) For section 104(1) of the Employment Protection (Consolidation) Act 1978 (duty of Secretary of State to pay redundancy rebates) there shall be substituted—
 

“(1) Where an employer—

  - (a) is liable under the foregoing provisions of this Part to pay, and has paid, a redundancy payment to an employee, or
  - (b) under an agreement in respect of which an order is in force under section 96, is liable to make, and has made, a payment to an employee on the termination of his contract of employment,

and that payment is a qualifying payment within the meaning of section 104A, then, subject to the provisions of this section, the Secretary of State shall make a payment out of the fund to the employer (in this Part referred to as a " redundancy rebate”).”
- (2) In section 104(3) of that Act (discretion of Secretary of State to pay redundancy rebates in certain cases), for the words from " satisfied that " onwards there shall be substituted " satisfied—
  - (a) that, had the payment been a payment falling within subsection (1)(a), it would have been a qualifying payment within the meaning of section 104A, and
  - (b) that it would be just and equitable to pay a redundancy rebate in respect of the payment having regard to all the relevant circumstances."
- (3) After section 104 there shall be inserted—

**“104A Qualifying payments for purposes of redundancy rebates.**

- (1) A payment made by an employer to an employee and falling within subsection (1)(a) or (b) of section 104 shall be treated as a qualifying payment if at no time on the appropriate date did the number of employees employed by the employer, added to the number employed by any associated employer, exceed nine.
- (2) In subsection (1) " the appropriate date "—
  - (a) in the case of a payment falling within section 104(1)(a), means the date which is the relevant date in relation to that payment by virtue of section 90(1) or (2); and
  - (b) in the case of a payment falling within section 104(1)(b), means the date on which the termination of the employee's contract of employment is treated as having taken effect for the purposes of the agreement referred to in that provision.
- (3) In determining for the purposes of subsection (1) the number of employees employed by any individual on any date an employee who is employed by that individual for the purposes of his own household shall be disregarded if—
  - (a) the employee's contract of employment normally involves employment for less than eight hours weekly, and
  - (b) not more than one other employee is so employed for the purposes of that household (whatever the number of hours of employment which any such other employee's contract of employment normally involves in a week).”
- (4) In section 117 of that Act (employees paid by person other than employer), after subsection (2) there shall be inserted—

“(2A) Section 104A shall have effect in relation to a payment falling within section 104(1)(a) or (b) and made to an employee to whom this section applies as if, in subsection (1)—

  - (a) any reference to the employer were a reference to the person responsible for paying the remuneration, and
  - (b) the reference to employees employed by the employer were a reference to employees who are employed by that person or whose remuneration is payable by him as mentioned in subsection (1) above.

(2B) In the application of section 104A(1) in relation to a payment falling within section 104(1) (a) or (b) and made by an employer to an employee, the reference to employees employed by the employer shall be construed as including a reference to employees whose remuneration is payable by the employer as mentioned in subsection (1) above.”

**28 Abolition of payments equivalent to redundancy rebates**

No payment shall be made by the Secretary of State under—

- (a) section 111(2) of the Employment Protection (Consolidation) Act 1978 (payments equivalent to redundancy rebates in respect of civil servants, etc.),  
or

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(b) section 113(1) of that Act (similar payments in respect of employees of foreign governments),  
in respect of any termination of employment occurring after the commencement of this section.

### **29 Power to make corresponding provision for Northern Ireland**

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of sections 27 and 28 of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House.

## **PART IV**

### **GENERAL**

### **30 Excluded employments**

- (1) Parts I and II do not apply to employment where under his contract the person employed ordinarily works outside Great Britain.
- (2) For the purposes of subsection (1) a person employed to work on board a ship registered in the United Kingdom (not being a ship registered at a port outside Great Britain) shall, unless—
  - (a) the employment is wholly outside Great Britain, or
  - (b) he is not ordinarily resident in Great Britain,be regarded as a person who under his contract ordinarily works in Great Britain.
- (3) Parts I and II do not, however, apply to a person employed under a crew agreement within the meaning of the Merchant Shipping Act 1970.

### **31 Financial provisions**

There shall be paid out of money provided by Parliament—

- (a) any expenses incurred by the Secretary of State in consequence of Part II;
- (b) any expenses incurred by wages councils (within the meaning of Part II) in accordance with the terms of any authorisation given by the Secretary of State with the consent of the Treasury ; and
- (c) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

### **32 Amendments, repeals, transitional provisions and savings**

- (1) The enactments mentioned in Schedule 4 shall have effect subject to the minor and consequential amendments there specified.
- (2) The enactments mentioned in Schedule 5 are hereby repealed to the extent specified in the third column of that Schedule.

- (3) The transitional provisions and savings contained in Schedule 6 shall have effect; but nothing in that Schedule shall be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 (which relate to repeals).

### **33 Short title, commencement and extent**

- (1) This Act may be cited as the Wages Act 1986.
- (2) The following provisions of this Act shall come into force on the day on which this Act is passed—  
section 24;  
section 25(1) to (3);  
section 29;  
section 31;  
section 32(3) and Schedule 6 ;  
this section.
- (3) The following provisions of this Act, namely—  
sections 27 and 28,  
paragraphs 8 and 11 of Schedule 4 and section 32(1) so far as relating thereto, and  
Part I of Schedule 5 and section 32(2) so far as relating thereto,  
shall come into force on the day on which this Act is passed or on 1st August 1986,  
whichever is the later.
- (4) The following provisions of this Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed—  
Part II (excluding sections 24 and 25(1) to (3) but including Schedules 2 and 3) ;  
section 30 so far as relating to Part II ;  
paragraphs 4 to 7 of Schedule 4 and section 32(1) so far as relating thereto ;  
Part II of Schedule 5 and section 32(2) so far as relating thereto.
- (5) The following provisions of this Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument, namely—  
Part I (including Schedule 1) ;  
section 30 so far as relating to Part I ;  
paragraphs 1 to 3, 9 and 10 of Schedule 4 and section 32 (1) so far as relating thereto ;  
Part III of Schedule 5 and section 32(2) so far as relating thereto.
- (6) An order under subsection (5) may—  
(a) appoint different days for different provisions or for different purposes;  
(b) contain such transitional and supplementary provisions as appear to the Secretary of State to be necessary or expedient.
- (7) With the exception of—  
section 29 (which extends only to Northern Ireland),  
paragraphs 5 and 6 of Schedule 4 and section 32(1) so far as relating thereto,  
section 32(2) and Part II of Schedule 5 so far as they repeal any provision of the Wages Councils Act 1979 extending to Northern Ireland, and  
this section,

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this Act does not extend to Northern Ireland.

## SCHEDULES

### SCHEDULE 1

Section 11.

#### ENACTMENTS REPEALED BY SECTION 11

- The [Truck Act 1831 \(c.37\)](#).
- The [Hosiery Manufacture \(Wages\) Act 1874 \(c.48\)](#).
- The [Payment of Wages in Public-houses Prohibition Act 1883 \(c.31\)](#).
- Sections 12 and 13 of the [Stannaries Act 1887 \(c.43\)](#).
- The [Truck Amendment Act 1887 \(c.46\)](#).
- Sections 12 to 14 of the [Coal Mines Regulation Act 1887 \(c.58\)](#).
- The [Coal Mines \(Check Weigher\) Act 1894 \(c.52\)](#).
- The [Truck Act 1896 \(c.44\)](#).
- The [Shop Clubs Act 1902 \(c.21\)](#).
- The [Coal Mines \(Weighing of Minerals\) Act 1905 \(c.9\)](#).
- The [Checkweighing in Various Industries Act 1919 \(c.51\)](#).
- The [Truck Act 1940 \(c.38\)](#).
- Section 51(2) of the [Mines and Quarries Act 1954 \(c.70\)](#).
- The [Payment of Wages Act 1960 \(c.37\)](#).
- Sections 135 and 135A of the [Factories Act 1961 \(c.34\)](#).

### SCHEDULE 2

Section 12(4).

#### CONSTITUTION ETC. OF WAGES COUNCILS

- 1 A wages council shall consist of—
  - (a) such numbers of persons appointed to represent employers and workers respectively as may be specified in relation to the council by the Secretary of State ; and
  - (b) not more than 5 persons appointed by the Secretary of State as being independent persons.
- 2 (1) Subject to sub-paragraph (4), the persons appointed under paragraph 1(a) shall be appointed as follows, namely—
  - (a) those appointed to represent employers shall be appointed by one or more employers' associations for the time being nominated for the purposes of this paragraph by the Secretary of State ; and
  - (b) those appointed to represent workers shall be appointed by one or more trade unions (within the meaning of the Trade Union and Labour Relations Act 1974) for the time being so nominated ;and in this Schedule references to the nominated body or bodies in relation to any appointment in pursuance of paragraph (a) or (b) above are references to the body or bodies falling within that paragraph.

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- (2) Unless it appears to the Secretary of State to be inappropriate in all the circumstances for this sub-paragraph to apply to the wages council—
- (a) the employers' association nominated by him for the purposes of sub-paragraph (1)(a), or
  - (b) where two or more employers' associations are so nominated, at least one of those associations,
- shall be an employers' association appearing to him to be representative of small businesses within the scope of operation of the wages council.
- (3) On making an appointment in pursuance of sub-paragraph (1)(a) or (b) the nominated body or bodies shall inform the secretary of the wages council in writing of that appointment.
- (4) If for any reason there is a deficiency in the number of persons appointed to a wages council in pursuance of sub-paragraph (1)(a) or (b), the Secretary of State shall, after consulting such persons or organisations as he thinks fit, appoint on behalf of the nominated body or bodies such number of persons to represent employers or (as the case may be) workers as will remedy that deficiency.
- 3       Of the independent persons appointed under paragraph 1(b) one shall be appointed by the Secretary of State to act as chairman, and another may be appointed by the Secretary of State to act as chairman in the absence of the chairman.
- 4       The Secretary of State may appoint a secretary for a wages council and such other officers as he thinks fit.
- 5       The proceedings of a wages council shall not be invalidated by any vacancy among the members or by any defect in the appointment of a member.
- 6       (1) A wages council may delegate any of its functions, other than the power to make orders under section 14, to a committee or sub-committee consisting of such number of members of the council as the council thinks fit.
- (2) On any such committee or sub-committee there shall be an equal number of members representing employers and workers respectively.
- 7       The Secretary of State may make regulations as to the meetings and procedure of a wages council and of any committee or subcommittee of such a council, including regulations as to the quorum and the method of voting; but, subject to the provisions of this Part of this Act and to any regulations under this paragraph, a wages council and any committee or sub-committee of such a council may regulate its procedure in such manner as it thinks fit.
- 8       (1) a member of a wages council shall hold and vacate office in accordance with the terms of his appointment, but a member shall not be appointed to hold office for more than 3 years at a time.
- (2) Where the term of office of any members of a wages council comes to an end before their successors are appointed, then, unless—
- (a) in the case of members appointed in pursuance of paragraph 2(1)(a) or (b), the nominated body or bodies directs or direct otherwise, or
  - (b) in the case of members appointed by the Secretary of State,
- the Secretary of State directs otherwise, those members shall continue in office until the new appointments take effect.
- 9       The Secretary of State may pay—

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- (a) to the members of a wages council appointed by him under paragraph 1(b) such remuneration, and
- (b) to any member of a wages council such travelling and other allowances, as the Secretary of State may determine with the consent of the Treasury.

### SCHEDULE 3

Section 14(9).

#### WAGES ORDERS : SUPPLEMENTARY PROVISIONS

##### *Preliminary inquiries and notices*

- 1 (1) Before making an order under section 14 a wages council shall make such inquiries as it thinks fit and shall—
- (a) publish in the prescribed manner notice of any rate or limit which the council proposes to fix under subsection (1) of that section (whether for the first time or in substitution for any existing rate or limit); and
  - (b) give the prescribed notice for the purpose of informing, so far as practicable, all persons affected by the council's proposals, stating the place where copies of the proposals may be obtained and the period within which written representations with respect to the proposals may be sent to the council, being a period of not less than 28 days beginning with the date of publication of the notice.
- (2) Once the council has considered any written representations made with respect to the proposals within the period referred to in sub-paragraph (1)(b) and made any further inquiries which the council considers necessary, or once that period has ended without any such representations being so made, the council may—
- (a) make an order under section 14 giving effect to the proposals ; or
  - (b) make such an order giving effect to the proposals with such modifications as the council thinks fit having regard to any such representations.
- (3) Sub-paragraph (2)(b) is without prejudice to section 14(6).

##### *Publication of notice of making of order*

- 2 As soon as a wages council has made an order under section 14 it shall publish in the prescribed manner notice of the making and contents of the order and shall then and subsequently so publish notice of such other matters affecting the operation of the order as may be prescribed.

##### *Coming into operation of orders*

- 3 (1) Subject to sub-paragraph (2), any such order shall come into force on such date as may be specified in the order, being a date falling not less than 28 days after the date when it is made. (2) Where
- (a) any such order applies to any worker whose remuneration is paid at intervals not exceeding seven days, and
  - (b) the date specified by virtue of sub-paragraph (1) does not correspond with the beginning of any period for which his remuneration is so paid,

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the order shall have effect in relation to that worker as from the beginning of the next such period following the date so specified.

*Proof of orders*

- 4 A document purporting to be a copy of an order made by a council under section 14 and to be signed by the secretary of the council shall be taken to be a true copy of the order unless the contrary is proved.

SCHEDULE 4

Section 32(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

*COAL MINES REGULATION ACT 1908 (c.57)*

- 1 In section 2 (register of times of descent and ascent), subsection (2) shall be omitted.
- 2 In section 8 (application of Act etc.), for subsection (1) substitute—
- “(1) The mines to which the Act applies are mines of coal, mines of stratified ironstone, mines of shale and mines of fireclay.”

*MINES AND QUARRIES ACT 1954 (c.70)*

- 3 In section 187(2) (application of Part XIV of that Act to certain enactments), for " the said Acts " substitute " the Coal Mines Regulation Act 1908 " .

*ATTACHMENT OF EARNINGS ACT 1971 (c.32)*

- 4 In Part I of Schedule 3 (scheme of deductions), for paragraph 3(c) substitute—
- “(c) amounts deductible under any enactment, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sums—
- (i) 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
- (ii) 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.”

*HOUSE OF COMMONS DISQUALIFICATION ACT 1975 (c.24)*

- 5 In Part III of Schedule 1 (other disqualifying offices), for the first entry beginning " Member of a Wages Council" substitute—
- “Member of a Wages Council appointed under paragraph 1(b) of Schedule 2 to the Wages Act 1986.”

*NORTHERN IRELAND ASSEMBLY DISQUALIFICATION ACT 1975 (c.25)*

- 6 In Part III of Schedule 1 (other disqualifying offices), for the first entry beginning " Member of a Wages Council" substitute—  
 “Member of a Wages Council appointed under paragraph 1(b) of Schedule 2 to the Wages Act 1986.”

*EMPLOYMENT PROTECTION (CONSOLIDATION) ACT 1978 (c.44)*

- 7 In section 18(2) (exemption orders), for paragraph (a) substitute—  
 “(a) section 14 of the Wages Act 1986 ;”.
- 8 In section 108(1)(a) (references etc. to tribunal relating to payments out of Redundancy Fund), after " payment" insert "and the payment is a qualifying payment within the meaning of section 104A ".
- 9 In section 133(1) (general provisions as to conciliation officers) after paragraph (d) insert “; or  
 (e) arising out of a contravention, or alleged contravention, of section 1(1) or (2) or section 2(1) or 3(4) of the Wages Act 1986.”.
- 10 In section 136(1) (appeals to Employment Appeal Tribunal), after paragraph (e) insert—  
 “(f) the Wages Act 1986.”.
- 11 In section 153(1) (interpretation), in the definition of " employer™s payment", for " (a), (b) or (c)" substitute " (a) or (b)".

## SCHEDULE 5

Section 32(2).

**PART I**

REPEALS COMING INTO FORCE IN ACCORDANCE WITH S.33(3)

| <i>Chapter</i> | <i>Short Title</i>                              | <i>Extent of Repeal</i>  |
|----------------|---|--|
| 1975 c. 71.    | Employment Protection Act 1975.                 | Section 104.<br>Section 105(4) and (5).  |
| 1978 c. 44.    | Employment Protection (Consolidation) Act 1978. | In section 104(2), the words " or paragraph (c) ".<br>In section 106(2)(c), the words " or paragraph (c) ".<br>Section 113.<br>In Schedule 6, in paragraph 6, the words " or paragraph (c)", and in paragraph 7(a) the words from " or (as " to " that subsection ". |

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| <i>Chapter</i> | <i>Short Title</i>                        | <i>Extent of Repeal</i>  |
|----------------|---|--|
| 1982 c. 2.     | Social Security (Contributions) Act 1982. | In Schedule 16, paragraph 23(5).<br>In Schedule 1, paragraph 2(2). |

## PART II

REPEALS COMING INTO FORCE TWO MONTHS AFTER ROYAL ASSENT

| <i>Chapter</i> | <i>Short Title</i>                 | <i>Extent of Repeal</i>  |
|----------------|------------------------------------|--|
| 1970 c. 41.    | Equal Pay Act 1970.                | Section 4.   |
| 1975 c. 71.    | Employment Protection Act 1975.    | In Part IV of Schedule 16, in paragraph 13(2) and (3) the figure " 4 ", and paragraph 13(6) to (11). |
| 1979 c. 12.    | Wages Councils Act 1979.           | The whole Act.   |
| 1982 c. 23.    | Oil and Gas (Enterprise) Act 1982. | In Schedule 3, paragraph 41.   |

## PART III

REPEALS COMING INTO FORCE ON A DAY APPOINTED UNDER S.33(5)

| <i>Chapter</i> | <i>Short Title</i>                                      | <i>Extent of Repeal</i> |
|----------------|---|-------------------------|
| 1831 c. 37.    | Truck Act 1831.   | The whole Act.          |
| 1874 c. 48.    | Hosiery Manufacture (Wages) Act 1874.                   | The whole Act.          |
| 1883 c. 31.    | Payment of Wages in Public-houses Prohibition Act 1883. | The whole Act.          |
| 1887 c. 43.    | Stannaries Act 1887.                                    | Sections 12 and 13.     |
| 1887 c. 46.    | Truck Amendment Act 1887.                               | The whole Act.          |
| 1887 c. 58.    | Coal Mines Regulation Act 1887.                         | The whole Act.          |
| 1894 c. 52.    | Coal Mines (Check Weigher) Act 1894.                    | The whole Act.          |
| 1896 c. 44.    | Truck Act 1896.   | The whole Act.          |
| 1902 c. 21.    | Shop Clubs Act 1902.                                    | The whole Act.          |
| 1905 c. 9.     | Coal Mines Weighing of Minerals) Act 1905.              | The whole Act.          |

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| <i>Chapter</i> | <i>Short Title</i>                             | <i>Extent of Repeal</i>  |
|----------------|--|--|
| 1908 c. 57.    | Coal Mines Regulation Act 1908.                | Section 2(2).  |
| 1919 c. 51.    | Checkweighing in Various Industries Act 1919.  | The whole Act.   |
| 1940 c. 38.    | Truck Act 1940.                                | The whole Act.   |
| 1951 c. 39.    | Common Informers Act 1951.                     | In the Schedule, the entry-relating to the Hosiery Manufacture Wages) Act 1874.                                  |
| 1954 c. 70.    | Mines and Quarries Act 1954.                   | Section 51(2).<br>Section 185.<br>In section 187(1), the words-from " the Coal Mines Regulation " to ", and of". |
| 1960 c. 37.    | Payment of Wages Act 1960.                     | The whole Act.   |
| 1961 c. 34.    | Factories Act 1961.                            | Sections 135 and 135A.   |
| 1969 c. 48.    | Post Office Act 1969.                          | In Schedule 4, paragraph 67.   |
| 1973 c. 38.    | Social Security Act 1973.                      | Section 70.  |
| 1975 c. 20.    | District Courts (Scotland) Act 1975.           | In Schedule 1, paragraph 6.  |
| 1975 c. 21.    | Criminal Procedure (Scotland) Act 1975.        | In Schedule 7A, paragraph 2.   |
| 1977 c. 45.    | Criminal Law Act 1977.                         | In Schedule 1, paragraph 2.  |
| 1980 c. 43.    | Magistrates' Courts Act 1980.                  | In Schedule 1, paragraph 17.   |
| 1982 c. 24.    | Social Security and Housing Benefits Act 1982. | Section 23A(2).  |

SCHEDULE 6

Section 32(3).

TRANSITIONAL PROVISIONS AND SAVINGS

*Members and officers of wages councils*

- 1 Any appointment of a member or officer of a wages council made under any provision of Schedule 2 to the Wages Councils Act 1979 (referred to in this Schedule as " the 1979 Act") and in force immediately before the commencement of Part II of this Act shall continue in force as if made under the corresponding provision of Schedule 2 to this Act.

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*Enforcement officers appointed by Secretary of State*

- 2 Any appointment of an officer made under section 22 of the 1979 Act and in force immediately before the commencement of Part II of this Act shall continue in force as if made under section 20 of this Act.

*Anticipatory exercise of powers relating to making of orders*

- 3 Without prejudice to section 13 of the Interpretation Act 1978 (anticipatory exercise of powers), any of the steps required by paragraph 1 of Schedule 3 to this Act to be taken before the making of an order under section 14 of this Act may be taken by a wages council (within the meaning of the 1979 Act) at any time before the commencement of Part II of this Act, as if Part II were then in force in relation to that council.

*Failure to pay minimum remuneration occurring before commencement of Part II*

- 4 (1) Where at any time during the period of two years ending with the date of an offence under section 16(2) of this Act an order under section 14 of the 1979 Act applied to the worker in relation to whom the offence was committed, or to any other worker employed by that worker's employer, section 16 of this Act shall have effect in relation to any such time as if—
- (a) in subsections (3) and (6), any reference to any other failure on the part of the employer to pay an amount of remuneration equal to, or exceeding, the statutory minimum remuneration provided for a worker by an order under section 14 of this Act were a reference to any failure on the part of the employer to pay an amount of remuneration equal to, or exceeding, the remuneration for the time being fixed in relation to a worker by an order under section 14 of the 1979 Act or by a permit under section 16(1) of that Act;
  - (b) in subsection (4), the reference to the statutory minimum remuneration so provided were a reference to the remuneration so fixed ; and
  - (c) subsection (5) were omitted.
- (2) For the purposes of subsections (3) and (4) of section 16 of this Act, as they have effect in accordance with sub-paragraph (1), the following matters, namely—
- (a) the question whether an employer has failed to pay an amount of remuneration equal to, or exceeding, that fixed by any such order or permit under the 1979 Act as is mentioned in that sub-paragraph, and
  - (b) the amount referred to in subsection (4)(b).
- shall be determined in accordance with sections 17 and 18 of the 1979 Act, and not in accordance with sections 17 and 18 of this Act.

*General saving for accrued rights and related provisions of 1979 Act*

- 5 (1) The repeal of the 1979 Act by this Act shall not affect
- (a) any right of a worker arising out of the payment to him of an amount of remuneration less than that fixed by any such order or permit under the 1979 Act as is mentioned in paragraph 4(1) and accruing before the commencement of Part II of this Act, or
  - (b) any liability of an employer or other person in respect of any offence under that Act committed before that commencement,

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and, subject to sub-paragraph (3), the provisions of that Act relating to the enforcement of any such right or to any such offence shall continue to have effect as if this Act had not been passed.

(2) Where at any time after that commencement any order made under section 14 of the 1979 Act continues in force by virtue of section 24(2) of this Act, then, notwithstanding the repeal of that Act by this Act—

(a) that Act, and

(b) anything having effect under that Act in relation to the order,

shall (subject to sub-paragraph (3)) continue to have effect in relation to the order, as for the time being in force in accordance with section 24(4) and (5), as if that repeal had not come into force.

(3) Where the 1979 Act continues to have effect in accordance with sub-paragraph (1) or (2) it shall, in relation to any time after the commencement of Part II of this Act, have effect as if references to an officer acting for the purposes of Parts III and IV of that Act were references to an officer acting for the purposes of Part II of this Act.

(4) Nothing in section 24(5) of this Act, or in any order made under section 24(4), shall affect—

(a) any such right of a worker as is mentioned in sub-paragraph (1), or

(b) any right of a worker to any annual holidays or to any holiday remuneration in respect of those holidays,

which accrued before the commencement of section 24(5) or (as the case may be) before the commencement of any such order.

#### *Power to preserve accrued rights under wages orders*

6 (1) In the case of any provision contained in an order under section 14 of the 1979 Act and ceasing to have effect (whether wholly or in part) at any time in accordance with section 24 of this Act, the Secretary of State may by order provide, for the purpose of, or in connection with, preserving the effect of rights accruing under that provision before that time, for that provision to continue in force as from that time subject to such modifications and transitional provisions as may be specified in the order.

(2) Without prejudice to the generality of sub-paragraph (1), an order under this paragraph may make provision in connection with preserving the effect of rights to which paragraph 5(4)(b) above applies.

(3) A provision contained in an order under this paragraph may be made with retrospective effect as from the date on which this Act is passed or any later date.

(4) Any order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Exemption orders*

7 Paragraph 7 of Schedule 4 shall not affect the operation of section 18 of the Employment Protection (Consolidation) Act 1978 in relation to any such order as is referred to in paragraph 5(2) above.

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*References to trade boards*

- 8 Any reference to a trade board in any enactment or document made before 28th March 1945 (the date of the passing of the Wages Councils Act 1945), other than an enactment repealed by that Act, shall be construed as including a reference to a wages council within the meaning of Part II of this Act.

*Redundancy rebates*

- 9 (1) In subsection (1) of section 104 of the Employment Protection (Consolidation) Act 1978, as substituted by section 27 of this Act, the requirement that a payment falling within paragraph (a) or (b) of that subsection should be a qualifying payment within the meaning of section 104A of that Act shall not apply to—
- (a) any payment falling within either of those paragraphs in respect of which a claim for a redundancy rebate has been made in accordance with regulations under section 104(5) before the commencement of section 27 of this Act, or
  - (b) any other payment so falling in relation to which the relevant date (as defined in sub-paragraph (2)) falls before that commencement.
- (2) In sub-paragraph (1)(b) " the relevant date "—
- (a) in the case of a payment falling within subsection (1)(a) of section 104, means the date which for the purposes of section 81(4) of that Act is the relevant date in relation to that payment by virtue of any provision of section 90 of that Act, and
  - (b) in the case of a payment falling within subsection (1)(b) of section 104, means the date on which the termination of the employee's contract of employment is treated as having taken effect for the purposes of the agreement referred to in that provision.

*Payments equivalent to redundancy rebates*

- 10 (1) Section 28 of this Act shall not affect the operation of provisions of section 111 of the Employment Protection (Consolidation) Act 1978 for purposes other than those of the making by the Secretary of State of payments under section 111(2).
- (2) The repeals made by this Act shall not affect the operation of section 113 of that Act in relation to any termination of employment occurring before the commencement of section 28 of this Act.