

Changes to legislation: There are currently no known outstanding effects for the National Minimum Wage Act 1998, Part I. (See end of Document for details)

SCHEDULES

SCHEDULE 2

AMENDMENTS RELATING TO REMUNERATION ETC OF AGRICULTURAL WORKERS

[^{F1}PART I

THE AGRICULTURAL WAGES ACT 1948

Textual Amendments

F1 Sch. 2 Pt. I repealed (25.6.2013 for the purpose of the repeal of Sch. 2 para. 2, 1.10.2013 for E. in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\)](#), [Sch. 20 para. 2](#); [S.I. 2013/1455, arts. 2\(c\), 3\(b\)](#), [Sch. 1, Sch. 2](#) (with art. 4(2)(4))

1 The Agricultural Wages Act 1948 shall be amended in accordance with this Part of this Schedule.

Section 3

2

Enforcement

3 (1) After section 3 there shall be inserted—

“Enforcement.

3A (1) The enforcement provisions of the National Minimum Wage Act 1998 shall have effect for the purposes of this Act as they have effect for the purposes of that Act, but with the modifications specified in subsections (3) and (4) of this section.

(2) In subsection (1) of this section “the enforcement provisions of the National Minimum Wage Act 1998” means the following provisions of that Act—

- (a) sections 9 to 11 (records);
- (b) section 14 (powers of officers);
- (c) sections 17 and 19 to 22 (enforcement of right to national minimum wage);
- (d) sections 23 and 24 (right not to suffer detriment);
- (e) sections 17 and 19 to 22 (enforcement of right to national minimum wage);
- (f) sections 31 to 33 (offences); and

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(g) section 49 (restriction on contracting out).

(3) In the application of any provision of the National Minimum Wage Act 1998 by subsection (1) of this section—

- (a) any reference to that Act, other than a reference to a specific provision of it, includes a reference to this Act;
- (b) any reference to a worker (within the meaning of that Act) shall be taken as a reference to a worker employed in agriculture (within the meaning of this Act);
- (c) any reference to a person (however described) who qualifies for the national minimum wage shall be taken as a reference to a worker employed in agriculture;
- (d) subject to paragraph (c) of this subsection, any reference to the national minimum wage, other than a reference to the hourly amount of the national minimum wage, shall be taken as a reference to the minimum rate applicable under this Act;
- (e) subject to paragraph (c) of this subsection, any reference to qualifying for the national minimum wage shall be taken as a reference to being entitled to the minimum rate applicable under this Act;
- (f) any reference to a pay reference period shall be disregarded.

(4) In the application of section 33 of the National Minimum Wage Act 1998 (proceedings for offences) by subsection (1) of this section, any reference to the Secretary of State shall be taken to include a reference to the Minister of Agriculture, Fisheries and Food.

(5) In section 104A of the M3Employment Rights Act 1996 (unfair dismissal: national minimum wage) in subsection (1)(c)—

- (a) any reference to a person qualifying for the national minimum wage includes a reference to a person being or becoming entitled to a minimum rate applicable under this Act; and
- (b) any reference to a person qualifying for a particular rate of national minimum wage includes a reference to a person being or becoming entitled to a particular minimum rate applicable under this Act.”

Section 4

4 ^{F2}(1)

(2) In consequence of sub-paragraph (1) above, the sidenote to section 4 becomes “Enforcement of holidays orders”.

<p>Textual Amendments</p> <p>F2 Sch. 2 para. 4(1) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 8</p>

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Section 5

- 5 (1) Section 5 (permits to incapacitated persons) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “the last preceding section relating to payment of wages at not less than the minimum rate” there shall be substituted “ subsection (1) of section 31 of the National Minimum Wage Act 1998 as it applies for the purposes of this Act (offence of refusing or wilfully neglecting to pay worker at applicable rate) ”; and
 - (b) for “any legal proceedings under the last preceding section for failing” there shall be substituted “ any legal proceedings under that subsection, as it so applies, for refusing or wilfully neglecting ”.
- (3) After subsection (1) there shall be inserted—
- “(1A) Every permit under subsection (1) of this section (whenever granted) shall be deemed to contain a condition that the worker to whom it is granted must at any time be paid at a rate which—
- (a) in the case of an hourly rate, is not less than the national minimum wage in force at that time; or
 - (b) in the case of a rate other than an hourly rate, is such as to yield an amount of wages for each hour worked which is not less than the hourly amount of the national minimum wage in force at that time.
- (1B) The condition which a permit is deemed to contain by virtue of subsection (1A) of this section—
- (a) overrides any other condition which the permit contains as to payment of wages, to the extent that that other condition provides for payment of wages at any time at a lower rate; but
 - (b) is without prejudice to any other condition which the permit contains as to payment of wages, to the extent that that other condition provides for payment of wages at any time at a higher rate”
- (4) In subsection (2)—
- (a) for “the preceding subsection” there shall be substituted “ subsection (1) of this section ”; and
 - (b) for “any legal proceedings under the last preceding section for failing” there shall be substituted “ any legal proceedings under section 31(1) of the National Minimum Wage Act 1998, as it applies for the purposes of this Act, for refusing or wilfully neglecting ”.

Section 11

F36

Textual Amendments

F3 Sch. 2 para. 6 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 8](#)

Section 12

- 7 (1) Section 12 (officers) shall be amended as follows.

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F4 (2)

(3) At the end of the section there shall be added—

“(8) The powers conferred by subsections (3) and (4) of this section are not exercisable in any case where corresponding or similar powers conferred by any of the enforcement provisions of the National Minimum Wage Act 1998, as they have effect for the purposes of this Act, are exercisable by virtue of section 3A of this Act

(9) In subsection (8) of this section, “the enforcement provisions of the National Minimum Wage Act 1998” has the same meaning as in subsection (1) of section 3A of this Act”

Textual Amendments

F4 Sch. 2 para. 7(2) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 8](#)

Information obtained by national minimum wage officers

8 After section 15 there shall be inserted—

“Information obtained by national minimum wage officers.

- 15A
- (1) This section applies to information which has been obtained by an officer acting for the purposes of the National Minimum Wage Act 1998
 - (2) This section does not apply to any information to the extent that the information relates to—
 - (a) any failure to allow holidays directed to be allowed by an order under section 3 of this Act; or
 - (b) any terms and conditions of employment fixed by such an order by virtue of subsection (1)(c) of that section.
 - (3) Information to which this section applies may, with the authority of the Secretary of State, be supplied to the relevant Minister for use for any purpose relating to this Act.
 - (4) Information supplied under subsection (3) of this section shall not be supplied by the recipient to any other person or body unless—
 - (a) it could be supplied to that person or body under that subsection; or
 - (b) it is supplied for the purposes of any civil or criminal proceedings relating to this Act;
 and shall not be supplied in those circumstances without the authority of the Secretary of State.
 - (5) This section does not limit the circumstances in which information may be supplied or used apart from this section.
 - (6) In this section “the relevant Minister” means—

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- (a) in relation to England, the Minister of Agriculture, Fisheries and Food; and
- (b) in relation to Wales, the Minister of the Crown with the function of appointing officers under section 12 of this Act in relation to Wales.”

Section 17

- 9 (1) Section 17 (interpretation) shall be amended as follows.
- (2) In subsection (1) the following definition shall be inserted at the appropriate place—
- (3) After subsection (1) there shall be inserted—
- “(1A) If, in the case of persons of any description, regulations under subsection (2) of section 3 of the National Minimum Wage Act 1998—
- (a) prevent them being persons who (within the meaning of that Act) qualify for the national minimum wage, or
 - (b) prescribe a rate (“the reduced rate”) for the national minimum wage other than the single hourly rate for the time being prescribed under section 1(3) of that Act,
- (b) prescribe a rate (“the reduced rate”) for the national minimum wage other than the single hourly rate for the time being prescribed under section 1(3) of that Act, this Act shall have effect in relation to persons of that description as if in a case falling within paragraph (a) above the national minimum wage were nil and in a case falling within paragraph (b) above the national minimum wage were the reduced rate.”

Relationship between the national minimum wage and agricultural wages legislation

- 10 After section 17 there shall be inserted—

“Relationship between this Act and the National Minimum Wage Act 1998.

- 17A (1) Except so far as expressly provided by this Act, nothing in the National Minimum Wage Act 1998 or in regulations made under that Act affects the operation of this Act.
- (2) This Act is subject to—
- (a) section 46 of the National Minimum Wage Act 1998; and
 - (b) section 47 of that Act and any regulations made under that section”]

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