



# Wages Councils Act 1979

## 1979 CHAPTER 12

An Act to consolidate the enactments relating to wages councils and statutory joint industrial councils. [22nd March 1979]

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

#### WAGES COUNCILS

#### 1 Establishment of wages councils

- (1) Subject to the provisions of this Part of this Act, the Secretary of State may by order establish a wages council to perform, in relation to the workers described in the order and their employers, the functions specified in relation to wages councils in the subsequent provisions of this Part of this Act.
- (2) An order establishing a wages council may be made by the Secretary of State either—
  - (a) if he is of opinion that no adequate machinery exists for the effective regulation of the remuneration of the workers described in the order and that, having regard to the remuneration existing among those workers, or any of them, it is expedient that such a council should be established ; or
  - (b) if he thinks fit, to give effect to a recommendation of the Advisory, Conciliation and Arbitration Service (" the Service ") made on the reference to it, in accordance with section 2 below, of an application made in accordance therewith for the establishment of a wages council; or
  - (c) if he thinks fit, to give effect to the recommendation of the Service made in a case where the Secretary of State, being of opinion that no adequate machinery exists for the effective regulation of the remuneration of any workers or the existing machinery is likely to cease to exist or be adequate for that purpose

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and a reasonable standard of remuneration among those workers will not be maintained, refers to the Service the question whether a wages council should be established with respect to any of those workers and their employers.

- (3) Schedule 1 to this Act shall have effect with respect to the making of orders establishing wages councils.
- (4) Schedule 2 to this Act shall have effect with respect to the constitution, officers and proceedings of wages councils.

## 2 Applications for wages council orders

- (1) An application for the establishment of a wages council with respect to any workers and their employers may be made to the Secretary of State either—

- (a) by a joint industrial council, conciliation board or other similar body constituted by organisations representative respectively of those workers and their employers; or
- (b) jointly by any organisation of workers and any organisation of employers which claim to be organisations that habitually take part in the settlement of remuneration and conditions of employment for those workers ;

on the ground, in either case, that the existing machinery for the settlement of remuneration and conditions of employment for those workers is likely to cease to exist or be adequate for that purpose.

- (2) Where such an application as aforesaid is made to him, the Secretary of State—
  - (a) subject to subsection (3) below, if he is satisfied that there are sufficient grounds to justify the reference of the application to the Service, and, in the case of an application under paragraph (b) of subsection (1) above, that the claim of the organisations habitually to take part in the settlement of remuneration and conditions of employment for those workers is well-founded, shall refer the application to the Service to inquire into and report on the application;
  - (b) if he is not so satisfied shall notify the applicants to that effect, in which case no further steps shall be taken on the application unless and until he is so satisfied by fresh facts brought to his notice:

Provided that before taking either of the said courses, the Secretary of State may require the applicants to furnish such information, if any, in relation to the application as he considers necessary.

- (3) If, on considering an application under subsection (1) above, it appears to the Secretary of State either—
  - (a) that there is a joint industrial council, conciliation board or other similar body constituted by organisations of workers and organisations of employers, being a council, board or body which would or might be affected by the establishment of a wages council in pursuance of the application ; or
  - (b) that there are organisations of workers and organisations of employers representative respectively of workers other than workers to whom the application relates and their employers, who would or might be affected by the establishment of a wages council as aforesaid;

being a council, board or body, or, as the case may be, organisations, which are parties to joint voluntary machinery for the settlement of remuneration and conditions of employment but are not parties to the application for a wages council, the Secretary

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of State shall, before deciding to refer the application to the Service give notice of the application to that council, board or body or, as the case may be, to those organisations, shall consider any observations in writing which may be submitted to him by them within such period as he may direct, not being less than one month from the date of the notice, and, if he decides to refer the application to the Service, shall transmit a copy of the observations to the Service.

- (4) If, before an application is referred to the Service, it is withdrawn by the applicants, no further proceedings shall be had thereon.

### **3 Proceedings on references as to establishment of wages councils**

- (1) Where the Secretary of State makes any such reference as is mentioned in paragraph (b) or (c) of subsection (2) of section 1 above, it shall be the duty of the Service to consider not only the subject matter of the reference but also any other question or matter which, in the opinion of the Service, is relevant thereto, and in particular to consider whether there are any other workers (being workers who, in the opinion of the Service, are engaged in work which is complementary, subsidiary or closely allied to the work performed by the workers specified in the reference or any of them) whose position should be dealt with together with that of the workers, or some of the workers, specified as aforesaid; and in relation to any such reference, any reference in this Part of this Act to the workers with whom the Service is concerned shall be construed as a reference to the workers specified as aforesaid and any such other workers as aforesaid.

- (2) If the Service is of opinion with respect to the workers with whom it is concerned or any of those workers whose position should, in the opinion of the Service be separately dealt with—

- (a) that there exists machinery set up by agreement between organisations representing workers and employers respectively which is, or can be made by improvements which it is practicable to secure, adequate for regulating the remuneration and conditions of employment of those workers; and
- (b) that there is no reason to believe that that machinery is likely to cease to exist or be adequate for that purpose,

the Service shall report to the Secretary of State accordingly and may include in its report any suggestions which it may think fit to make as to the improvement of that machinery.

- (3) Where any such suggestions are so included, the Secretary of State shall take such steps as appear to him to be expedient and practicable to secure the improvements in question.

- (4) If the Service is of opinion with respect to the workers with whom it is concerned or any of those workers whose position should, in the opinion of the Service, be separately dealt with—

- (a) that machinery for regulating the remuneration and conditions of employment of those workers is not, and cannot be made by any improvements which it is practicable to secure, adequate for that purpose, or does not exist; or
- (b) that the existing machinery is likely to cease to exist or be adequate for that purpose,

and that as a result a reasonable standard of remuneration among those workers is not being or will not be maintained, the Service may make a report to the Secretary of State

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embodying a recommendation for the establishment of a wages council in respect of those workers and their employers.

- (5) In considering for the purposes of section 1 above whether any machinery is, or is likely to remain, adequate for regulating the remuneration and conditions of employment of any workers, the Service shall consider not only what matters are capable of being dealt with by that machinery, but also to what extent those matters are covered by the agreements or awards arrived at or given thereunder, and to what extent the practice is, or is likely to be, in accordance with those agreements or awards.

#### **4 Abolition of, or variation of field of operation of, wages councils**

- (1) The Secretary of State may at any time abolish a wages council by order made—
- (a) to give effect to an application in that behalf made to him in accordance with section 5 below, or
  - (b) without any such application, subject however to the provisions of section 6 below.
- (2) The Secretary of State may at any time by order vary the field of operation of a wages council.
- (3) The power of the Secretary of State to make an order under this section varying the field of operation of a wages council shall include power to vary that field by excluding from it any employers to whom there for the time being applies, as members of an organisation named in the order, an agreement, to which the organisation or any other organisation of which it is a member or on which it is represented, is a party, regulating remuneration or other terms or conditions of employment of their employees.
- (4) Any organisation so named shall if it has not already done so furnish the Secretary of State with a list of its members and shall from time to time, and also if so required by the Secretary of State, furnish him with particulars of any changes in their membership which have occurred since the list was furnished or, as the case may be, when particulars were last furnished to him.
- (5) An order under this section abolishing or varying the field of operation of one or more wages councils may include provision for the establishment of one or more wages councils operating in relation to all or any of the workers in relation to whom the first mentioned council or councils would have operated but for the order, and such other workers, if any, as may be specified in the order.
- (6) Where an order of the Secretary of State under this section directs that any workers shall be excluded from the field of operation of one wages council and brought within the field of operation of another, the order may provide that anything done by, or to give effect to proposals made by, the first-mentioned council 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-mentioned council and may make such further provision as appears to the Secretary of State to be expedient in connection with the transition.
- (7) Where an order of the Secretary of State under this section directs that a wages council shall be abolished or shall cease to operate in relation to any workers, then, save as is otherwise provided by the order, anything done by, or to give effect to proposals made by the wages council shall, except as respects things previously done or omitted to be done, 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.

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- (8) Schedule 1 to this Act shall have effect with respect to the making of orders under this section.

## **5 Applications for abolition of wages councils**

- (1) An application such as is mentioned in paragraph (a) of subsection (1) of section 4 above may be made to the Secretary of State either—
- (a) by a joint industrial council, conciliation board or other similar body constituted by organisations of workers and organisations of employers which represent respectively substantial proportions of the workers and employers with respect to whom that wages council operates; or
  - (b) jointly by organisations of workers and organisations of employers which represent respectively substantial proportions of the workers and employers aforesaid ; or
  - (c) by any organisation of workers which represents a substantial proportion of the workers with respect to whom that wages council operates.
- (2) The grounds on which any such application may be made are that the existence of a wages council is no longer necessary for the purpose of maintaining a reasonable standard of remuneration for the workers with respect to whom that wages council operates.

## **6 References to the Service as to variation or revocation of wages council orders**

- (1) The Secretary of State—
- (a) shall in any case where an application for the abolition of a wages council has been made to him under section 5 above and he does not thereupon proceed to the making of an order giving effect to the application,
  - (b) may in any other case where he is considering whether to exercise his power under section 4 above to abolish or vary the field of operation of a wages council;
- refer to the Service the question whether the council should be abolished or, as the case may be, its field of operation varied.
- (2) On a reference under this section of a question as to the abolition of a wages council the Service, if of the opinion that it is expedient to do so, may make a report to the Secretary of State recommending—
- (i) the abolition of the wages council to which the reference relates, or
  - (ii) the narrowing of the field of operation of the council, and (in either case), if the Service is of the opinion that it is expedient as aforesaid, also recommending the transfer of workers to the field of operation of another wages council, whether already existing or to be established.
- (3) On a reference under this section as to the variation of the field of operation of a wages council the Service may make a report to the Secretary of State recommending any such variation (including the transfer of workers to the field of operation of any other wages council, whether already existing or to be established) which appears to the Service desirable in all the circumstances.

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## **7 Supplemental provisions**

- (1) On any reference under this Part of this Act to the Service, the Service shall make all such investigations as appear to it to be necessary and shall publish in the prescribed manner a notice stating the questions which it is its duty to consider by virtue of the reference and further stating that it will consider representations with respect thereto made to it in writing within such period as may be specified in the notice, not being less than forty days from the date of the publication thereof; and it shall consider any representations made to it within that period and then make such further inquiries as it considers necessary including, so far as it considers necessary, the hearing of oral evidence.
- (2) Any power conferred by this Part of this Act on the Secretary of State to make an order giving effect to a recommendation of the Service shall be construed as including power to make an order giving effect to that recommendation with such modifications as he thinks fit, being modifications which, in his opinion, do not effect important alterations in the character of the recommendation.
- (3) Where the Secretary of State receives any report from the Service he may, if he thinks fit, refer the report back to the Service and the Service shall thereupon reconsider it having regard to any observations made by him and shall make a further report, and the like proceedings shall be had on any such further report as in the case of an original report.
- (4) The Secretary of State shall publish every report made to him by the Service under this Part of this Act:

Provided that where he refers a report back to the Service, he shall not be bound to publish it until he publishes the further report of the Service.

## **8 Advisory committees**

- (1) A wages council may request the Secretary of State to appoint a committee for any of the workers within the field of operation of the council and the Secretary of State shall appoint a committee accordingly, and the council may refer to it for a report and recommendations any matter relating to those workers which the council thinks it expedient so to refer.
- (2) Schedule 3 to this Act shall have effect with respect to committees appointed under this section.

## **9 General duty of wages councils to consider references by government departments**

- (1) A wages council shall consider, as occasion requires, any matter referred to it by the Secretary of State or any government department with reference to the industrial conditions prevailing as respects the workers and employers in relation to whom it operates, and shall make a report upon the matter to the Secretary of State or, as the case may be, to that department.
- (2) A wages council may, if it thinks it expedient so to do, make of its own motion a recommendation to the Secretary of State or any government department with reference to the said conditions and, where such a recommendation is so made, the Secretary of State or, as the case may be, that department, shall forthwith take it into consideration.

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## PART II

### STATUTORY JOINT INDUSTRIAL COUNCILS

#### 10 Conversion of wages councils to statutory joint industrial councils

- (1) The Secretary of State may by order made in accordance with the following provisions of this section provide that a wages council shall become a statutory joint industrial council having the functions conferred on statutory joint industrial councils by the provisions of Part III of this Act.
- (2) The Secretary of State may make an order under this section with respect to a wages council—
  - (a) on an application made to him by the employers' association or trade union nominated in relation to the council or by that association and union jointly; or
  - (b) without an application under paragraph (a) above, but after consultation with the employers' association and trade union so nominated.
- (3) An order under this section shall not be made on an application by an employers' association or trade union alone unless the Secretary of State has consulted every employers' association and trade union nominated in relation to the wages council in question and (whether so nominated or not) all organisations of employers and workers which in his opinion represent a substantial proportion of employers and workers respectively in relation to whom that council operates.
- (4) The Secretary of State shall before making an order under this section refer the question whether he should do so to the Service, and the Service shall inquire into it and report on that question.
- (5) Part I of Schedule 4 to this Act shall have effect with respect to the constitution, officers and proceedings of statutory joint industrial councils and Part II of that Schedule shall have effect with respect to the transition of a wages council to a statutory joint industrial council.

#### 11 Disputes between employers' and workers' representatives

- (1) If in the opinion of either the persons appointed to represent employers or the persons appointed to represent workers on a statutory joint industrial council, a dispute has arisen on any question and cannot be settled by the members of the council, those persons may request the Service to attempt to bring about a settlement of the dispute and the Service shall attempt to do so accordingly.
- (2) If the Service is unable to bring about a settlement of any such dispute, the Service shall refer the dispute for settlement to the arbitration of—
  - (a) one or more persons appointed by the Service for that purpose (not being an officer or servant of the Service); or
  - (b) the Central Arbitration Committee.
- (3) Where more than one arbitrator is appointed under subsection (2)(a) above, the Service shall appoint one of the arbitrators to act as chairman.
- (4) Any determination of the arbitrator, arbitrators or Committee on a dispute referred to him, them or it under this section shall be final and binding on the statutory joint industrial council and its members, and the council shall make an order under

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section 14 below or take any other steps which may be necessary to give effect to the determination.

- (5) Part I of the Arbitration Act 1950 shall not apply to an arbitration under this section.
- (6) In the application of this section to Scotland, references to an arbitrator shall be construed as references to an arbiter.

## **12 Abolition of statutory joint industrial councils**

- (1) If the Secretary of State is of the opinion that, in the event of the abolition of a statutory joint industrial council, adequate machinery would be established for the effective regulation of the remuneration and other terms and conditions of employment of the workers within the council's field of operation and is likely thereafter to be maintained, he may by order abolish the council.
- (2) An order under this section may be made on the application of the statutory joint industrial council concerned or without such an application, but shall not be made without such an application unless the Secretary of State has consulted the council.
- (3) The Secretary of State shall before making an order under this section refer the question whether he should do so to the Service, and the Service shall inquire into it and report on that question.
- (4) Where an order under this section abolishes a statutory joint industrial council, then, save as is otherwise provided by the order, anything done by the council shall, except as respects things previously done or omitted to be done, cease to have effect.

## **13 Supplemental provisions**

- (1) In sections 10 to 12 above "nominated", in relation to an employers' association or trade union, means, an association or union for the time being nominated under paragraph 1(2) of Schedule 2 to this Act to appoint persons to represent employers or workers on the wages council in question.
- (2) Schedule 1 to this Act shall apply in relation to an order under section 10 above providing that a wages council shall become a statutory joint industrial council and in relation to an order under section 12 above abolishing a statutory joint industrial council.

## **PART III**

### ORDERS REGULATING TERMS AND CONDITIONS OF EMPLOYMENT

## **14 Power to fix terms and conditions of employment**

- (1) A wages council or a statutory joint industrial council may make an order, subject to and in accordance with the provisions of this section,—
  - (a) fixing the remuneration,
  - (b) requiring holidays to be allowed,
  - (c) fixing any other terms and conditions,
 for all or any of the workers in relation to whom the council operates.



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- (2) An order under this section requiring a holiday to be allowed for a worker—
  - (a) shall not be made unless both holiday remuneration in respect of the period of the holiday and remuneration other than holiday remuneration have been or are being fixed under this Part of this Act for that worker ;
  - (b) shall provide for the duration of the holiday being related to the duration of the period for which the worker has been employed or engaged to be employed by the employer who is to allow the holiday ; and
  - (c) subject as aforesaid, may make provision as to the times at which or the periods within which, and the circumstances in which, the holiday shall be allowed.
- (3) Any order under this section fixing holiday remuneration may contain provisions—
  - (a) as to the times at which, and the conditions subject to which, that remuneration shall accrue and shall become payable, and
  - (b) for securing that any such remuneration which has accrued due to a worker during his employment by any employer shall, in the event of his ceasing to be employed by that employer before he becomes entitled to be allowed a holiday by him, nevertheless become payable by the employer to the worker.
- (4) Before making an order under this section the council shall make such investigations as it thinks fit and shall—
  - (a) publish in the prescribed manner notice of the council's proposals with respect to any new terms and conditions of employment (that is to say, any terms and conditions of employment differing from any then in force by virtue of an order made under this section); and
  - (b) give the prescribed notice for the purpose of informing, so far as practicable, all persons affected by the proposals, stating the place where copies of the proposals may be obtained and the period (which shall not be less than fourteen days from the date of publication of the notice) within which written representations with respect to the proposals may be sent to the council.
- (5) After considering any written representations made with respect to any such proposals within the said period and making such further inquiries as the council considers necessary, or if no such representations are made within that period, after the expiration of that period, the council may make an order—
  - (a) giving effect to the proposals ; or
  - (b) giving effect to them with such modifications as the council thinks fit having regard to any such representations ;but if it appears to the council that, having regard to the nature of any proposed modifications, an opportunity should be given to persons concerned to consider the modifications, the council shall again publish the proposals and give notice under subsection (4) above, and that subsection and this subsection shall apply accordingly.
- (6) Subsections (4) and (5) above have effect subject to the provisions of subsection (1A) of section 4 of the Equal Pay Act 1970.
- (7) An order under this section shall have effect as regards any terms as to remuneration as from a date specified in the order, which may be a date earlier than the date of the order but not earlier than the date on which the council agreed on those terms prior to publishing the original proposals to which effect is given, with or without modifications, by the order; but where any such order fixing workers' remuneration applies to any worker who is paid wages at intervals not exceeding seven days and the

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date so specified does not correspond with the beginning of the period for which the wages are paid (hereafter in this section referred to as a wages period), the order shall, as respects that worker, have effect as from the beginning of the next wages period following the date specified in the order.

- (8) Any increase in remuneration payable by virtue of an order under this section in respect of any time before the date of the order shall be paid by the employer within a period specified in the order, being—
- (a) in the case of a worker who is in the employment of the employer on the date of the order, a period beginning with that date;
  - (b) in the case of a worker who is no longer in the employment of the employer on that date, a period beginning with the date on which the employer receives from the worker or a person acting on his behalf a request in writing for the remuneration ;
- but if, in the case of a worker falling within paragraph (a) of this subsection who is paid wages at intervals not exceeding seven days, pay day (the day on which wages are normally paid to him) for any wages period falling wholly or partly within the period so specified occurs within seven days from the end of that specified period, any such remuneration shall be paid not later than pay day.
- (9) As soon as a council has made an order under this section it shall give the prescribed notice of the making and contents of the order and shall then and subsequently give such notice of other prescribed matters affecting its operation for the purpose of informing, so far as practicable, all persons who will be affected by it.
- (10) An order under this section may make different provision for different cases and may amend or revoke previous orders under this section.
- (11) A document purporting to be a copy of an order made by a council under this section 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.
- (12) An order under this section shall not prejudice any rights conferred on any worker by or under any other enactment.

## **15 Effect and enforcement of orders under section 14**

- (1) If a contract between a worker to whom an order under section 14 above applies and his employer provides for the payment of less remuneration than the statutory minimum remuneration, it shall have effect as if the statutory minimum remuneration were substituted for the remuneration provided for in the contract, and if any such contract provides for the payment of any holiday remuneration at times or subject to conditions other than those specified in the order, it shall have effect as if the times or conditions specified in the order were substituted for those provided for in the contract.
- (2) If any such contract fixes terms and conditions other than those relating to remuneration or wages which are less favourable than the corresponding terms and conditions specified in an order under section 14 above it shall have effect as if the corresponding terms and conditions were substituted for those fixed by the contract.
- (3) If an employer fails—
  - (a) to pay a worker to whom an order under section 14 above applies remuneration not less than the statutory minimum remuneration; or

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- (b) to pay him arrears of remuneration before the expiration of the period specified in the order ; or
  - (c) to pay him holiday remuneration at the times and subject to the conditions specified in the order ; or
  - (d) to allow to any such worker the holidays fixed by the order;
- he shall for each offence be liable on summary conviction to a fine not exceeding £100.
- (4) Where proceedings are brought under subsection (3) above in respect of an offence consisting of a failure to pay remuneration not less than the statutory minimum remuneration, or to pay arrears of remuneration, 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, then, subject to subsection (5) below,—
    - (a) evidence may be given of any failure on the part of the employer to pay any such remuneration or arrears during the two years ending with the date of the offence to any worker employed by him ; and
    - (b) on proof of the failure, the court may order the employer to pay such sum as is found by the court to represent the difference between the amount of any such remuneration or arrears which ought to have been paid during that period to any such worker, if the provisions of this Part of this Act had been complied with, and the amount actually so paid.
  - (5) Evidence of any failure to pay any such remuneration or arrears may be given under subsection (4) above only if—
    - (a) the employer or any other person charged as aforesaid has been convicted of the offence consisting of the failure; and
    - (b) notice of intention to adduce such evidence has been served with the summons or warrant.
  - (6) 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.
  - (7) In the application of this section to Scotland—
    - (a) in subsection (4), 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 (5), in paragraph (a) the words " or any other person charged as aforesaid " shall be omitted, and in paragraph (b) for the words " summons or warrant " there shall be substituted the word " complaint ".

## 16 Permits to infirm and incapacitated persons

- (1) If, as respects any worker employed or desiring to be employed in such circumstances that an order under section 14 above applies or will apply to him, the council which made the order is satisfied, on application being made to it for a permit under this section either by the worker or the employer or a prospective employer, that the worker is affected by infirmity or physical incapacity which renders him incapable of earning the statutory minimum remuneration or makes it inappropriate for other terms and conditions fixed by the order to apply to him, it may, if it thinks fit, grant, subject to any conditions it may determine, a permit authorising his employment at less than the statutory minimum remuneration or dispensing with a term or condition specified in the permit; and while the permit is in force the remuneration authorised by the permit shall, if the conditions specified in the permit are complied with, be deemed to be

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the statutory minimum remuneration or, as the case may be, the terms and conditions fixed by the order shall be deemed to be observed.

- (2) Where an employer employs any worker in reliance on any document purporting to be a permit granted under subsection (1) above authorising the employment of that worker at less than the statutory minimum remuneration, or dispensing with a term or condition specified in the permit, then, if the employer has notified the council in question that, relying on that document, he is employing or proposing to employ that worker at a specified remuneration or without compliance with any such term or condition, the document shall, notwithstanding that it is not or is no longer a valid permit relating to that worker, be deemed, subject to the terms thereof and as respects only any period after the notification, to be such a permit until notice to the contrary is received by the employer from the council.

## 17 Computation of remuneration

- (1) Subject to the provisions of this Part of this Act, any reference therein to remuneration shall be construed as a reference to the amount obtained or to be obtained in cash by the worker from his employer after allowing for the worker's necessary expenditure, if any, in connection with his employment, and clear of all deductions in respect of any matter whatsoever, except any reduction lawfully made—
- (a) under the Income Tax Acts, the enactments relating to social security or any enactment requiring or authorising deductions to be made for the purposes of a superannuation scheme ;
  - (b) at the request in writing of the worker, either for the purposes of a superannuation scheme or a thrift scheme or for any purpose in the carrying out of which the employer has no beneficial financial interest, whether directly or indirectly ; or
  - (c) in pursuance of, or in accordance with, such a contract in that behalf as is mentioned in section 1, 2 or 3 of the Truck Act 1896 and in accordance with the provisions of that section.
- (2) Notwithstanding subsection (1) above, orders under section 14 above may contain provisions authorising specified benefits or advantages, being benefits or advantages provided, in pursuance of the terms and conditions of the employment of workers, by the employer or by some other person under arrangements with the employer and not being benefits or advantages the provision of which is illegal by virtue of the Truck Acts 1831 to 1940, or of any other enactment, to be reckoned as payment of wages by the employer in lieu of payment in cash, and defining the value at which any such benefits or advantages are to be reckoned.
- (3) If any payment is made by a worker in respect of any benefit or advantage provided as mentioned in the foregoing subsection, then,—
- (a) if the benefit or advantage is authorised by virtue of that subsection to be reckoned as therein mentioned, the amount of the payment shall be deducted from the defined value for the purposes of the reckoning;
  - (b) if the benefit or advantage is authorised by virtue of that subsection to be reckoned as therein mentioned, any excess of the amount of the payment over the defined value shall be treated for the purposes of subsection (1) above as if it had been a deduction not being one of the excepted deductions therein mentioned;
  - (c) if the benefit or advantage is specified in an order under section 14 above as one which has been taken into account in fixing the statutory minimum

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remuneration, the whole of the payment shall be treated for the purposes of subsection (1) above as if it had been a deduction not being one of the excepted deductions therein mentioned.

- (4) Nothing in this section shall be construed as authorising the making of any deduction, or the giving of remuneration in any manner, which is illegal by virtue of the Truck Acts 1831 to 1940, or of any other enactment.

## **18 Apportionment of remuneration**

Where for any period a worker receives remuneration for work for part of which he is entitled to statutory minimum remuneration at one or more time rates and for the remainder of which no statutory minimum remuneration is fixed, the amount of the remuneration which is to be attributed to the work for which he is entitled to statutory minimum remuneration shall, if not apparent from the terms of the contract between the employer and the worker, be deemed for the purposes of this Part of this Act to be the amount which bears to the total amount of the remuneration the same proportion as the time spent on the part of the work for which he is entitled to statutory minimum remuneration bears to the time spent on the whole of the work.

## **19 Employers not to receive premiums**

- (1) Where a worker to whom an order under section 14 above applies is an apprentice or learner, it shall not be lawful for his employer to receive directly or indirectly from him, or on his behalf or on his account, any payment by way of premium:

Provided that nothing in this section shall apply to any such payment duly made in pursuance of any instrument of apprenticeship not later than four weeks after the commencement of the apprenticeship or to any such payment made at any time if duly made in pursuance of any instrument of apprenticeship approved for the purposes of this proviso by a wages council or by a statutory joint industrial council.

- (2) If any employer acts in contravention of this section, he shall be liable on summary conviction in respect of each offence to a fine not exceeding £100, and the court may, in addition to imposing a fine, order him to repay to the worker or other person by whom the payment was made the sum improperly received by way of premium.

## **20 Records and notices**

- (1) The employer of any workers to whom an order under section 14 above applies shall keep such records as are necessary to show whether or not the provisions of this Part and Part IV of this Act are being complied with as respects them, and the records shall be retained by the employer for three years.
- (2) The employer of any workers shall post in the prescribed manner such notices as may be prescribed for the purpose of informing them of any proposal or order under section 14 above affecting them, and, if it is so prescribed, shall give notice in any other prescribed manner to the said workers of the said matters and of such other matters, if any, as may be prescribed.
- (3) If an employer fails to comply with any of the requirements of this section he shall be liable on summary conviction to a fine not exceeding £100.

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## PART IV

### MISCELLANEOUS

#### *Offences and enforcement*

#### **21 Criminal liability of agent and superior employer, and special defence open to employer**

- (1) Where the immediate employer of any worker is himself in the employment of some other person and that worker is employed on the premises of that other person, that other person shall for the purposes of Part III and this Part of this Act be deemed to be the employer of that worker jointly with the immediate employer.
- (2) Where an employer is charged with an offence under Part III or this Part of this Act, he shall be entitled, upon information duly laid by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person to whose act or default he alleges that the offence in question was due brought before the court at the time appointed for the hearing of the charge; and if, after the commission of the offence has been proved, the employer proves that the offence was due to the act or the default of that other person, that other person may be convicted of the offence, and, if the employer further proves that he has used all due diligence to secure that the provisions of Part III and this Part of this Act and any relevant regulation or order made thereunder are complied with, he shall be acquitted of the offence.
- (3) Where a defendant seeks to avail himself of the provisions of subsection (2) above—
  - (a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him if he gives evidence and any witnesses called by him in support of his pleas and to call rebutting evidence;
  - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.
- (4) Where it appears to an officer acting for the purposes of Part III and this Part of this Act that an offence has been committed in respect of which proceedings might be taken under this Act against an employer, and the officer is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the employer could establish a defence under subsection (2) above, the officer may cause proceedings to be taken against that other person without first causing proceedings to be taken against the employer.

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

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

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with the provisions of Part III and this Part of this Act and any relevant regulation or order made thereunder and that the offence was due to the act or default of some other person, he shall be acquitted of the offence.

## 22 Officers

- (1) The Secretary of State, with the approval of the Minister for the Civil Service as to numbers and salaries, may appoint officers to act for the purposes of Part III and this Part of this Act, and may, in lieu of or in addition to appointing any officers under this section, arrange with any government department that officers of that department shall act for the said purposes.
- (2) Every officer acting for the purposes of Part III and this Part of this Act shall be furnished by the Secretary of State with a certificate of his appointment or authority so to act, and, when so acting, shall, if so required by any person affected, produce the certificate to him.
- (3) An officer acting for the purposes of Part III and this Part of this Act shall have power for the performance of his duties—
  - (a) to require the production of wages sheets or other records of wages kept by an employer, and records of payments made to homeworkers by persons giving out work, and any other such records as are required by this Act to be kept by employers, and to inspect and examine those sheets or records and copy any material part thereof;
  - (b) to require the production of any licence or certificate granted under the Transport Act 1968, and of any records kept in pursuance of Part VI of the Transport Act 1968 or of the applicable Community rules within the meaning of the said Part VI, and to examine any such licence, certificate or records and copy it or them or any material part thereof;
  - (c) to require any person giving out work and any home-worker to give any information which it is in his power to give with respect to the names and addresses of the persons to whom the work is given out or from whom the work is received, as the case may be, and with respect to the payments to be made for the work ;
  - (d) at all reasonable times to enter any premises at which any employer to whom an order under section 14 above applies carries on his business (including any place used, in connection with that business, for giving out work to homeworkers and any premises which the officer has reasonable cause to believe to be used by or by arrangement with the employer to provide living accommodation for workers);
  - (e) to inspect and copy any material part of any list of home-workers kept by an employer or person giving out work to homeworkers;
  - (f) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under Part III or this Part of this Act, any person whom he has reasonable cause to believe to be or to have been a worker to whom an order under section 14 above applies or applied or the employer of any such person or a servant or agent of the employer employed in the employer's business, and to require every such person to be so examined, and to sign a declaration of the truth of the matters in respect of which he is so examined:

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

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

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

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

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

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

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

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

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

## **24 Power to obtain information**

- (1) The Secretary of State may, for the purpose of, or in connection with the enforcement of, an order under section 14 above, by notice in writing require an employer within the field of operation of a council making such an order to furnish such information as may be specified or described in the notice.
- (2) A notice under this section may specify the way in which, and the time within which, it is to be complied with, and may be varied or revoked by a subsequent notice so given.



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- (3) If a person refuses or wilfully neglects to furnish any information which he has been required to furnish by a notice under subsection (1) above, he shall be liable on summary conviction to a fine not exceeding £100.
- (4) If a person, in purporting to comply with a requirement of a notice under subsection (1) above, knowingly or recklessly makes any false statement he shall be liable on summary conviction to a fine not exceeding £400.
- (5) Section 21 above shall not apply in relation to an offence under this section.
- (6) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (7) Where the affairs of the body corporate are managed by its members, subsection (6) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### *Central co-ordinating committees*

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

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

Provided that, except where subsection (2) or (3) below applies, the Secretary of State shall, before making any such order, consult the wages councils or statutory joint industrial councils, or, as the case may be, the wages councils and the statutory joint industrial councils, concerned.

- (2) Where the Service makes a recommendation for the establishment of a wages council or statutory joint industrial council it may include in its report a recommendation for the establishment, in relation to any council established in accordance with the recommendation and any other council (including a council proposed to be established by another recommendation embodied in the same report), of a central co-ordinating committee, or for the variation of the field of operation of an existing central co-ordinating committee so that it operates also in connection with any council established in accordance with the recommendation.
- (3) Where the Service makes a recommendation for the abolition of a wages council or statutory joint industrial council, it may include in its report a recommendation for the variation of the field of operation of an existing central co-ordinating committee so that it no longer operates in relation to the council to be abolished, or a recommendation for the abolition of any central co-ordinating committee theretofore operating in relation to the council to be abolished.
- (4) The Secretary of State may by order give effect to a recommendation made under subsection (2) or (3) above.

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- (5) It shall be the duty of any central co-ordinating committee from time to time—
- (a) to consider whether the field of operation of the councils in relation to which it is established is properly divided as between the councils and to report thereon to the Secretary of State;
  - (b) to make recommendations to the councils with respect to the principles to be followed by them in the exercise of their powers under this Act;
  - (c) to consider any question referred to it by the Secretary of State or by the councils or any two or more of them, and to report thereon to the Secretary of State, or to the councils which referred the question, as the case may be.
- (6) Schedule 2 to this Act shall have effect with respect to the constitution, officers and proceedings of central co-ordinating committees.

*Reports on regulation of terms and conditions of employment*

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

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

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

*Power to extend wages councils legislation*

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

- (1) Her Majesty may by Order in Council provide that—
- (a) the provisions of this Act, and
  - (b) the provisions of any legislation (that is to say any enactment of the Parliament of Northern Ireland and any provision made by or under a Measure of the Northern Ireland Assembly) for the time being in force in Northern Ireland which makes provision for purposes corresponding to any of the purposes of the provisions of this Act,
- shall, to such extent and for such purposes as may be specified in the Order, apply (with or without modification) to or in relation to any person in employment to which this section applies.
- (2) This section applies to employment for the purposes of any activities—
- (a) in the territorial waters of the United Kingdom; or
  - (b) connected with the exploration of the sea bed or subsoil or the exploitation of their natural resources in any designated area; or
  - (c) connected with the exploration or exploitation, in a foreign sector of the continental shelf, of a cross-boundary petroleum field.

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- (3) An Order in Council under subsection (1) above—
- (a) may make different provision for different cases;
  - (b) may provide that all or any of the provisions of any Act mentioned in that subsection, as applied by such an Order, shall apply to individuals whether or not they are British subjects and to bodies corporate whether or not they are incorporated under the law of any part of the United Kingdom (notwithstanding that the application may affect their activities outside the United Kingdom);
  - (c) may make provision for conferring jurisdiction on any court or class of court specified in the Order, or on industrial tribunals, in respect of offences, causes of action or other matters arising in connection with employment to which this section applies;
  - (d) without prejudice to the generality of subsection (1) above or of paragraph (a) above, may provide that the enactments referred to in that subsection shall apply in relation to any person in employment for the purposes of such activities as are referred to in subsection (2) above in any part of the areas specified in paragraphs (a) and (b) of that subsection;
  - (e) may exclude from the operation of section 3 of the Territorial Waters Jurisdiction Act 1878 (consents required for prosecutions) proceedings for offences under the enactments referred to in subsection (1) above in connection with employment to which this section applies;
  - (f) may provide that such proceedings shall not be brought without such consent as may be required by the Order.
- (4) Any jurisdiction conferred on any court or tribunal under this section shall be without prejudice to jurisdiction exercisable apart from this section by that or any other court or tribunal.
- (5) In this section—
- " cross-boundary petroleum field " means a petroleum field that extends across the boundary between a designated area and a foreign sector of the continental shelf;
  - " designated area " means an area designated under section 1(7) of the Continental Shelf Act 1964 ;
  - " foreign sector of the continental shelf " means an area which is outside the territorial waters of any State and within which rights are exercisable by a State other than the United Kingdom with respect to the sea bed and subsoil and their natural resources ;
  - " petroleum field " means a geological structure identified as an oil or gas field by the Order in Council concerned.

### *Supplemental*

## **28 Interpretation**

In this Act—

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

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" homeworkers " means a person who contracts with a person, for the purposes of that person's business, for the execution of work to be done in a place not under the control or management of the person with whom he contracts, and who does not normally make use of the services of more than two persons in the carrying out of contracts for the execution of work with statutory minimum remuneration;

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

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

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

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

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

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

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

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

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

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

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

" worker " means any person—

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

(b) whether or not he falls within the foregoing provision, who is a homeworker;

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

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

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## **29 Orders and regulations**

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

## **30 Expenses**

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

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

- (1) The transitional provisions and savings in Schedule 5 to this Act shall have effect, but nothing in that Schedule shall be construed as prejudicing section 16 of the Interpretation Act 1978 (effect of repeals).
- (2) The enactments specified in Schedule 6 to this Act shall have effect subject to the amendments specified in that Schedule.
- (3) The enactments specified in the first column of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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

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

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## SCHEDULES

### SCHEDULE 1

Sections 1, 4 and 13.

#### ORDERS RELATING TO WAGES COUNCILS AND STATUTORY JOINT INDUSTRIAL COUNCILS

- 1 In this Schedule, except in so far as the context otherwise requires, " order " means an order, whether made in pursuance of the recommendation of the Service or not, under section 1, 4, 10 or 12 of this Act.
- 2 Before making an order, the Secretary of State shall publish, in the prescribed manner, notice of his intention to make the order, specifying a place where copies of a draft thereof may be obtained and the time (which shall not be less than forty days from the date of the publication) within which any objection made with respect to the draft order must be sent to him.
- 3 In relation to the making of an order under section 4 of this Act in pursuance of an application made in accordance with section 5(1)(c) of this Act, paragraph 2 above shall have effect as if, before the words " shall publish ", there were inserted the words " after consultation with the wages council concerned and with all such organisations of employers as in his opinion represent a substantial proportion of employers with respect to whom the wages council operates ".
- 4 Every objection made with respect to the draft order must be in writing, and must state—
  - (a) the specific grounds of objection, and
  - (b) the omissions, additions or modifications asked for,
 and the Secretary of State shall consider any such objection made by or on behalf of any person appearing to him to be affected, being an objection sent to him within the time specified in the notice, but shall not be bound to consider any other objection.
- 5 (1) If there is no objection which the Secretary of State is required by paragraph 4 above to consider or if, after considering any such objection, he is of the opinion that it satisfies one of the following conditions, that is to say—
  - (a) in the case of an order to be made in pursuance of a recommendation of the Service, the objection was made to the Service and was expressly dealt with in the report embodying the recommendations ; or
  - (b) in the case of such an order as is referred to in paragraph (a) above, the objection is one the subject-matter of which was considered by the Service and was expressly dealt with in that report or is such that a further inquiry into that subject-matter would serve no useful purpose ; or
  - (c) in any case, the objection will be met by a modification which he proposes to make under this paragraph, or is frivolous,
 he may make the order either in the terms of the draft or subject to such modifications, if any, as he thinks fit, being modifications which, in his opinion, do not effect important alterations in the character of the draft order as published.
- (2) The Secretary of State shall not form an opinion as to any matter mentioned in paragraph (b) of sub-paragraph (1) above without consulting the Service.

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- 6 Where the Secretary of State does not proceed under paragraph 5 above, he may, if he thinks fit, either—
- (a) amend the draft order, in which case all the provisions of this Schedule shall have effect in relation to the amended draft order as they have effect in relation to an original draft order; or
  - (b) refer the draft order to the Service for inquiry and report, in which case he shall consider the report of the Service and may then, if he thinks fit, make an order either in the terms of the draft or with such modifications as he thinks fit.
- 7 (1) Where any objection is made to the Secretary of State and, under sub-paragraph (b) of paragraph 6 above, he refers the draft order to the Service, the Secretary of State shall notify to the Service the objections which he wishes the Service to take into account, and the questions which it is the duty of the Service to consider and report on by virtue of the reference shall be all questions affecting the draft order which arise on or in connection with the objections so notified.
- (2) The Secretary of State shall include in the objections which he notifies to the Service all the objections which, under paragraph 4 above, he is himself required to consider, other than any objections which he thinks fit to exclude, in the case of an order in pursuance of a recommendation of the Service, on the ground that, in his opinion, they were made to the Service and were expressly dealt with in the report embodying the recommendation or, in any case, on the ground that they are in the Secretary of State's opinion frivolous.
- 8 (1) Where any of the councils affected by an order under section 4 or 12 of this Act is one of the councils in relation to which a central coordinating committee has been established under section 25 of this Act, the Secretary of State, before making the order, shall consult that committee and take into consideration any observations which it may make to him within fourteen days from the date on which he consults it.
- (2) Where an order under section 4 of this Act directs that a wages council shall cease to operate in relation to any workers, and that another existing wages council shall operate in relation to them, but, save as aforesaid, does not affect the field of operation of any wages council, paragraphs 2 to 7 above shall not apply but before making the order the Secretary of State shall consult the councils concerned.
- (3) On the reference under sub-paragraph (b) of paragraph 6 above of a draft order for the abolition, or variation of the field of operation, of a wages council, subsection (2), or, as the case may be, (3) of section 6 of this Act shall apply as it would apply to the like reference under that section; and the power of the Secretary of State under the said sub-paragraph (b) to modify the draft in making an order shall include power to make any alterations necessary to give effect to a recommendation of the Service, with or without modifications.
- 9 An order shall come into operation on the date on which it is first issued by Her Majesty's Stationery Office or on such later date as is specified in the order.

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## SCHEDULE 2

Sections 1 and 25.

### CONSTITUTION, OFFICERS AND PROCEEDINGS OF WAGES COUNCILS AND CO-ORDINATING COMMITTEES

- 1 (1) A wages council or, subject to paragraph 2 below, a central co-ordinating committee shall consist of—
- (a) not more than three persons appointed by the Secretary of State as being independent persons ;
  - (b) such number of persons appointed to represent employers and workers on the council or committee as falls within the limits for the time being specified for the purposes of this paragraph by the Secretary of State.
- (2) Subject to sub-paragraphs (4) and (5) below, the persons appointed under sub-paragraph (1) above to represent employers shall be appointed by one or more employers' associations for the time being nominated for that purpose by the Secretary of State and those so appointed to represent workers shall be appointed by one or more trade unions so nominated.
- (3) A nominated employers' association or trade union shall on making such an appointment inform the secretary of the wages council or central co-ordinating committee, in writing, of that appointment.
- (4) If the nominated employers' association or the nominated trade union are unable to agree on such an appointment, they shall consult the Secretary of State who may make the appointment on their behalf.
- (5) If it appears to the Secretary of State that an insufficient number of persons has been appointed to represent either employers or workers on a wages council or central co-ordinating committee he may, after consultation with such persons or organisations as he thinks fit, himself appoint such number of persons for the purpose as will secure a sufficiency of representatives of employers or workers, as the case may be, on the council or committee.
- (6) Of the independent persons appointed under sub-paragraph (1)(a) above, 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.
- 2 (1) A central co-ordinating committee operating in relation only to two or more statutory joint industrial councils shall consist of equal numbers of persons appointed by one or more employers' associations to represent employers on the committee and of persons appointed by one or more trade unions to represent workers on the committee.
- (2) Any such committee shall elect a chairman and deputy chairman from among its members.
- 3 The Secretary of State may on the application of a wages council or central co-ordinating committee make such changes in the number of members or the machinery for appointing them as is necessary or expedient in the circumstances.
- 4 The Secretary of State may appoint a secretary and such other officers as he thinks fit of a wages council or central co-ordinating committee.
- 5 The proceedings of a wages council or central co-ordinating committee shall not be invalidated by reason of any vacancy therein or by any defect in the appointment of a member.



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- 6 (1) A wages council or central co-ordinating committee may delegate any of its functions, other than the power to make orders under section 14 of this Act, to a committee or sub-committee consisting of such number of members of the council as the council or committee thinks fit.
- (2) The number of members representing employers and the number of members representing workers on a committee of a council or any such sub-committee shall be equal.
- 7 The Secretary of State may make regulations as to the meetings and procedure of a wages council or central co-ordinating committee and of any committee or, as the case may be, sub-committee thereof, including regulations as to the quorum and the method of voting, but, subject to the provisions of this Act and to any regulations so made, a wages council or central co-ordinating committee and any committee or, as the case may be, sub-committee thereof may regulate its procedure in such manner as it thinks fit
- 8 (1) A member of a wages council or central co-ordinating committee shall hold and vacate office in accordance with the terms of his appointment, but the period for which he is to hold office, shall, without prejudice to his re-appointment, not exceed five years.
- (2) Where the term for which the members of a wages council or central co-ordinating committee were appointed comes to an end before their successors are appointed, those members shall, except so far as the Secretary of State or, as the case may be, the appointing body otherwise directs, continue in office until the new appointments take effect
- 9 There may be paid to the members of a wages council or central co-ordinating committee appointed under paragraph 1(a) above such remuneration, and to any member of any such council or committee such travelling and other allowances, as the Secretary of State may, with the consent of the Minister for the Civil Service, determine, and all such remuneration and allowances shall be defrayed as part of the expenses of the Secretary of State in carrying this Act into effect.

### SCHEDULE 3

Section 8.

#### PROVISIONS AS TO ADVISORY COMMITTEES

- 1 (1) Any committee appointed by the Secretary of State at the request of a wages council shall consist of—
- (a) a chairman chosen as being an independent person;
  - (b) persons who appear to the Secretary of State to represent the employers in relation to whom the committee will operate; and
  - (c) persons who appear to the Secretary of State to represent the workers in relation to whom the committee will operate.
- (2) On any such committee the persons appointed under head (b), and the persons appointed under head (c), of sub-paragraph (1) above shall be equal in number.
- 2 (1) The appointment of a member of any such committee as aforesaid shall be for such term as may be determined by the Secretary of State before his appointment and shall be subject to such conditions as may be so determined.

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- (2) Where the term for which the members of an advisory committee were appointed comes to an end before the Secretary of State has appointed the persons who are to serve as members of the committee after the expiration of that term, they shall, except so far as the Secretary of State otherwise directs, continue in office until the new appointments take effect.
- 3        There may be paid to the chairman of any such committee as aforesaid such fees, and to any member of any such committee such travelling and other allowances, as the Secretary of State may, with the consent of the Minister for the Civil Service, determine, and all such fees and allowances shall be defrayed out of moneys provided by Parliament.

## SCHEDULE 4

Section 10.

### STATUTORY JOINT INDUSTRIAL COUNCILS

#### PART I

##### CONSTITUTION, ETC

- 1        (1) A statutory joint industrial council (hereafter in this Part of this Schedule referred to as a council) shall consist of equal numbers (being numbers within the limits specified by the Secretary of State) of persons appointed by a nominated employers' association to represent employers on the council and of persons appointed by a nominated trade union to represent workers on the council.
- (2) A nominated employers' association or trade union shall on making such an appointment inform the secretary of the council, in writing, of that appointment.
- 2        (1) On the conversion of a wages council to a statutory joint industrial council—
- (a) the limits as to the number of persons to be appointed to represent employers and workers on that wages council which are immediately before the date on which that council becomes a statutory joint industrial council for the time being specified by the Secretary of State, shall continue, subject to sub-paragraph (2) below, to be the limits in relation to that statutory joint industrial council; and
- (b) an employers' association or trade union which immediately before the date on which that wages council becomes a statutory joint industrial council is for the time being nominated by the Secretary of State for the purpose of appointing persons to represent employers or workers on that wages council, shall continue, subject to sub-paragraph (2) below, to be so nominated in relation to that statutory joint industrial council.
- (2) The Secretary of State may, on the application of a statutory joint industrial council, make such changes in the number of members of the council or in the machinery for appointing them as are necessary or expedient in the circumstances.
- 3        A council shall elect a chairman and deputy chairman from among its members.
- 4        The proceedings of a council shall not be invalidated by reason of any vacancy among its members or by any defect in the appointment of a member.

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- 5 (1) A council may delegate any of its functions, other than the power to make orders under section 14 of this Act, to a committee consisting of such number of members of the council as the council thinks fit.
- (2) The number of members representing employers and the number of members representing workers on a committee of a council shall be equal.
- 6 A council may regulate its own procedure.
- 7 (1) A member of a council shall hold and vacate office in accordance with the terms of his appointment, but the period for which he is to hold office shall, without prejudice to his re-appointment, not exceed five years.
- (2) Where the term for which the members of a council were appointed comes to an end before their successors are appointed, those members shall, except so far as the appointing body otherwise directs, continue in office until the new appointments take effect.
- 8 The Secretary of State may pay to the members of a council such travelling and other allowances, including allowances for loss of remunerative time, as the Secretary of State may, with the consent of the Minister for the Civil Service, determine.
- 9 The expenses of a statutory joint industrial council, to such an extent as may be approved by the Secretary of State with the consent of the Treasury, shall be paid by the Secretary of State.
- 10 The Secretary of State may appoint a secretary and such other officers of a council as he thinks fit.

## PART II

### TRANSITIONAL PROVISIONS

- 11 Any of the following things done by, to or in relation to a wages council, that is to say—  
any order made under section 14 of this Act;  
any proposals published in relation to making of such an order, any notice published and representations made with respect thereto;  
any permit issued under section 16 of this Act;  
any approval given under the proviso to section 19(1) of this Act;  
shall as from the date when that council becomes a statutory joint industrial council be treated as having been done by, to or in relation to the latter council.
- 12 The persons who immediately before the date on which a wages council becomes a statutory joint industrial council are the members of the wages council appointed by an employers' association or trade union shall, subject to paragraph 2(2) above, become and continue to be members of the statutory joint industrial council as if they had been appointed under paragraph 1 above.
- 13 The persons who immediately before the date on which a wages council becomes a statutory joint industrial council are the secretary and officers of the wages council shall on that date become the secretary and officers of the statutory joint industrial council.

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## SCHEDULE 5

Section 31.

## TRANSITIONAL PROVISIONS

- 1 The repeals effected by this Act shall not affect any right of a worker to recover sums from his employer on account of the payment to the worker of remuneration less than the statutory minimum remuneration, or the power of an officer of the Secretary of State to institute on behalf of and in the name of the worker civil proceedings for the enforcement of that right or the power of the court in such proceedings to make an order for the payment of costs by the officer.
- 2 A member of a wages council or central co-ordinating committee who, immediately before the commencement of this Act, is by virtue of paragraph 11(3) of Schedule 17 to the Employment Protection Act 1975 treated as having been appointed by a nominated employers' association or trade union shall continue to be so treated.
- 3 Any reference in any enactment or document made before the passing of the Wages Councils Act 1945 (28th March 1945), other than an enactment repealed by that Act, to a trade board shall be construed as including a reference to a wages council.

## SCHEDULE 6

Section 31.

## CONSEQUENTIAL AMENDMENTS

*Post Office Act 1969 (c. 48)*

- 1 In section 81(1) of the Post Office Act 1969, for the words " the Wages Councils Act 1959 " there are substituted the words " Wages Councils Act 1979 ".

*Equal Pay Act 1970 (c. 41)*

- 2 In section 4 of the Equal Pay Act 1970—
- (a) in subsections (1), (1A), and (2), for the words " section 11 of the Wages Councils Act 1959 ", in each place where they occur, there are substituted the words " section 14 of the Wages Councils Act 1979 " ; and
  - (b) in subsection (1A), for the words " subsections (3) and (3A) of the said section 11 " there are substituted the words " subsections (4) and (5) of the said section 14 " ; and
  - (c) in subsection (3), for the words " section 12(1) or (1A) of the Wages Councils Act 1959 ", " in section 12(1) or (1A) " and " section 11 (8) " there are substituted the words " section 15(1) or (2) of the Wages Councils Act 1979 ", " in section 15(1) or (2) " and " section 14(12) " respectively.

*Attachment of Earnings Act 1971 (c. 32)*

- 3 In Schedule 3 to the Attachment of Earnings Act 1971, in paragraph 3(c), for the words " Wages Councils Act 1959 " there are substituted the words "Wages Councils Act 1979 ".

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*House of Commons Disqualification Act 1975 (c. 24)*

- 4 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975, in the first entry relating to wages councils, for the words " paragraph 1(a) of Schedule 2 to the Wages Councils Act 1959 or Chairman of a Committee appointed under paragraph 1(1)(a) of Schedule 3 to that Act" there are substituted the words " paragraph 1(1)(a) of Schedule 2 to the Wages Councils Act 1979 or chairman of a committee appointed under paragraph 1(1)(a) of Schedule 3 to that Act ".

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 5 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, in the first entry relating to wages councils, for the words " paragraph 1(a) of Schedule 2 to the Wages Councils Act 1959 or Chairman of a Committee appointed under paragraph 1(1)(a) of Schedule 3 to that Act" there are substituted the words " paragraph 1(1)(a) of Schedule 2 to the Wages Councils Act 1979 or chairman of a committee appointed under paragraph 1(1)(a) of Schedule 3 to that Act ".

*Employment Protection (Consolidation) Act 1978 (c. 44)*

- 6 In section 18(2) of the Employment Protection (Consolidation) Act 1978 for paragraph (a) there is substituted the following paragraph—  
“(a) section 14 of the Wages Councils Act 1979 ;”.

SCHEDULE 7

Section 31.

REPEALS

Chapter	Short Title	Extent of Repeal
7 & 8 Eliz. 2 c. 69.	Wages Councils Act 1959.	The whole Act.
1968 c. 64.	Civil Evidence Act 1968.	In the Schedule, the paragraph relating to the Wages Councils Act 1959.
1968 c. 73.	Transport Act 1968.	In Schedule 11, the paragraph relating to the Wages Councils Act 1959.
1972 c. 68.	European Communities Act 1972.	In Schedule 4, in paragraph 9(4), the words " and in section 19(3)(b) of the Wages Councils Act 1959 ".
1973 c. 38.	Social Security Act 1973.	In Schedule 27, paragraph 21.
1974 c. 52.	Trade Union and Labour Relations Act 1974.	In Schedule 3, paragraph 9.
1975 c. 71.	Employment Protection Act 1975.	Sections 89 to 96. In section 127(1), paragraph (a).

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Chapter	Short Title	Extent of Repeal
1976 c. 3.	Road Traffic (Drivers' Ages and Hours of Work) Act 1976.	Schedules 7 and 8. In Schedule 17, paragraph 11 and, in paragraph 12, the words "section 11 of the Wages Councils Act 1959". In section 2(3), the words "section 19(3)(b) of the Wages Councils Act 1959".