



Agricultural Wages Act 1948

1948 CHAPTER 47 11 and 12 Geo 6

Wages and Holidays

5 Permits to incapacitated persons.

(1) If, on an application in that behalf, an agricultural wages committee are satisfied that a worker employed or desiring to be employed in their county on time work to which a minimum rate fixed under this Act is applicable, or on piece work to which a minimum time rate so fixed is applicable, is so affected by any physical injury or mental deficiency, or any infirmity due to age or to any other cause, that he is incapable of earning that minimum rate, the committee shall grant to him a permit exempting, as from the date of the application or from a later date specified in the permit, his employment from the provisions of [^{F1}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)], subject to such conditions as may be specified in the permit, including, if the committee think fit, a condition as to the wages to be paid to the worker, and, while the permit has effect, an employer shall not be liable to [^{F2}any legal proceedings under that subsection, as it so applies, for refusing or wilfully neglecting] to pay to the worker wages at a rate not less than the minimum rate if those conditions are complied with.

^{F3}[(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

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- (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.]
- (2) If an application for a permit under [^{F4}subsection (1) of this section] is not disposed of within twenty-one days after the day on which it is received, then the employer of the worker to whom the application relates shall not be liable to [^{F5}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] to pay to the worker wages at a rate not less than the minimum rate during the interval between the expiration of the said period and the date on which the application is ultimately disposed of.
- [^{F6}(2A) If on an application in that behalf an agricultural wages committee are satisfied that a worker employed or desiring to be employed in their county is so affected by any physical injury or mental deficiency, or any infirmity due to age or any other cause, as to make it inappropriate for any terms and conditions of employment (other than those with respect to wages and holidays) fixed by an order under this Act to apply to him, the committee shall grant him, subject to any conditions that they may determine, a permit dispensing, as from the date of the application or a later date specified in the permit, with a term or condition specified in the order, and while the permit is in force and any conditions to which the permit is subject are complied with, the terms and conditions fixed by the order shall be deemed to be observed.]
- (3) Where an agricultural wages committee have granted a permit under subsection (1) [^{F7}or (2A)] of this section and at any time thereafter it appears to the committee, whether on an application under this subsection or otherwise, that the worker to whom the permit relates is no longer so affected by any such incapacity as is mentioned in the said subsection (1) [^{F7}or (2A)] as to be incapable of earning the minimum rate in question, the committee shall revoke the permit.
- (4) Where an agricultural wages committee have granted such a permit as aforesaid and it appears to the committee, whether on an application under this subsection or otherwise, that, by reason of any change in minimum rates of wages or in the circumstances of the worker to whom the permit relates, it is expedient to vary any condition specified in the permit, the committee may direct that the condition shall be varied in such manner as may be specified in the direction [^{F8}and, in the case of a variation caused by a change made by an order under this Act in the minimum rates of wages, that variation shall take effect from a date specified in the direction, not being earlier than the date of the change.]
- [^{F9}(4A) Any increase of wages payable by virtue of a variation of a permit under subsection (4) of this section in respect of any time before the date of the variation 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 on which notice of the variation is given in accordance with subsection (5) of this section, a period beginning with that date;
 - (b) in the case of a worker who is no longer in the employment of the employer on the date referred to in the last preceding paragraph, a period beginning with that date or the date on which the employer receives from the worker or a person acting on his behalf a request in writing for those wages, whichever is the later.]
- (5) Before revoking any permit or varying any condition under the preceding provisions of this section, an agricultural wages committee shall serve on the worker to whom

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the permit relates, and, in a case where the identity of his employer is known to the committee, on his employer, notice of their proposal so to do, and afford to the worker and the employer (where such a notice as aforesaid is required to be served on him) an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the permit relates and, in a case where the identity of his employer is known to the committee, on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

- (6) Where a permit granted to a worker under subsection (1) of this section contains a condition for the payment of wages to the worker at a rate not less than the rate therein specified, the amount of wages that may be recovered from an employer of the worker in pursuance of this Act shall, as respects any period during which the permit had effect, be calculated on the basis of the rate so specified instead of on the basis of the minimum rate.

Textual Amendments

- F1** Words in s. 5(1) substituted (1.4.1999) by 1998 c. 39, s. 47, **Sch. 2 Pt. I para. 5(2)(a)** (with s. 36); S.I. 1999/685, art. 2, **Sch.** (with art. 3)
- F2** Words in s. 5(1) substituted (1.4.1999) by 1998 c. 39, s. 47, **Sch. 2 Pt. I para. 5(2)(b)** (with s. 36); S.I. 1999/685, art. 2, **Sch.** (with art. 3)
- F3** S. 5(1A)(1B) inserted (1.4.1999) by 1998 c. 39, s. 47, **Sch. 2 Pt. I para. 5(3)** (with s. 36); S.I. 1999/685, art. 2, **Sch.** (with art. 3)
- F4** Words in s. 5(2) substituted (1.4.1999) by 1998 c. 39, s. 47, **Sch. 2 Pt. I para. 5(4)(a)** (with s. 36); S.I. 1999/685, art. 2, **Sch.** (with art. 3)
- F5** Words in s. 5(2) substituted (1.4.1999) by 1998 c. 39, s. 47, **Sch. 2 Pt. I para. 5(4)(b)** (with s. 36); S.I. 1999/685, art. 2, **Sch.** (with art. 3)
- F6** S. 5(2A) inserted by **Employment Protection Act 1975 (c. 71), Sch. 9 Pt. II para. 2(1)**
- F7** Words inserted by **Employment Protection Act 1975 (c. 71), Sch. 9 Pt. II para. 2(2)**
- F8** Words inserted by **Employment Protection Act 1975 (c. 71), Sch. 9 Pt. II para. 2(3)**
- F9** S. 5(4A) inserted by **Employment Protection Act 1975 (c. 71), Sch. 9 Pt. II para. 2(4)**

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