

*Changes to legislation: There are currently no known outstanding effects for the Employment Protection Act 1975, SCHEDULE 10. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 10

Section 97.

#### <sup>M1</sup>AMENDMENTS OF AGRICULTURAL WAGES (SCOTLAND) ACT 1949

##### Marginal Citations

**M1** 1949 c. 30.

### PART 1

#### SECTION 3, AS SUBSTITUTED

##### Modifications etc. (not altering text)

**C1** The text of ss. 97(1)–(4), 111(1), 114–116, 125(3), Sch. 9 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 10 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1) (2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt. IV paras. 2(1)–(4), 3(1) (2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Power of Scottish Agricultural Wages Board to fix rates of wages and holidays.*

- 3 (1) Subject to and in accordance with the provisions of this section, the Board shall have power to make an order in accordance with the provisions of Schedule 3 to this Act—
- (a) fixing minimum rates of wages ;
  - (b) directing holidays to be allowed ;
  - (c) fixing any other terms and conditions of employment
- for workers employed in agriculture.
- (2) The power of the Board to make an order under subsection (1)(a) of this section fixing minimum rates of wages is a power to make an order—
- (a) fixing minimum rates for time work ;
  - (b) fixing minimum rates for piece work ;
  - (c) fixing minimum rates for time work, to apply in the case of workers employed on piece work, for the purpose of securing to such workers a minimum rate of remuneration on a time work basis ; or
  - (d) fixing separate minimum rates by way of pay in respect of holidays:

Provided that the minimum time rate for piece-work shall not in any case be higher than the minimum rate which, if the work were time work, would be applicable thereto by virtue of paragraph (a) of this subsection.

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- (2A) It shall be the duty of the Board to make an order under this section fixing such minimum rates of wages for time work as are referred to in paragraph (a) of the last preceding subsection.
- (3) An order under paragraph (b) of subsection (1) of this section directing that a worker shall be allowed a holiday—
- (a) shall not be made unless both minimum rates of wages in respect of the period of the holiday and minimum rates of wages otherwise than in respect of the holiday have been or are being fixed under this section 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 provisions as to the times at which or the periods within which, and the circumstances in which, the holiday shall be allowed.
- (3A) An order under this section fixing separate minimum rates of wages in respect of holiday may make provision—
- (a) with respect to the times at which, and the conditions subject to which, those wages shall accrue and shall become payable, and
  - (b) for securing that any such wages which have accrued 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) Any such minimum rates of wages as are mentioned in subsection(2) of this section may be fixed so as to vary according as the employment is for a day, week, month or other period, or according to the number of working hours, or the conditions of the employment or so as to provide for a differential rate in the case of employment defined by the Board as being overtime employment, whether that employment is remunerated on a time work or a piece work basis.
- In the exercise of their powers under this subsection, the Board shall, so far as is reasonably practicable, secure a weekly half-holiday for workers.
- (5) An order under this section shall have effect as regards any terms as to remuneration 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 Board agreed on those terms prior to publishing (in accordance with Schedule 3 to this Act) the original proposals to which effect is given, with or without modifications, by the order.
- (6) Any increase of wages payable by virtue of an order under this section in respect of any time before the date of the order (hereafter in this Act referred to as arrears of wages) 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 that date, 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 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.
- (7) Nothing in this section shall be construed as preventing the Board fixing a minimum rate of wages so as to secure that workers employed in agriculture

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receive remuneration calculated by reference to periods during the currency of their employment.

## PART II

### MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 In section 4(1) (enforcement), after paragraph (c) there shall be inserted the words “or
- (d) to pay to any such worker arrears of wages within the period specified in the order;”
- and accordingly references in the provisions of that section following that paragraph and in any other provisions of the <sup>M2</sup>Agricultural Wages (Scotland) Act 1949 to wages or to the payment of wages at a rate not less than the minimum rate or the minimum rate applicable shall include references to arrears of wages or their payment, as the case may require.

#### Marginal Citations

M2 1949 c. 30.

- 2 <sup>F1</sup>(1) In section 5 (permits to infirm and incapacitated persons), after subsection (2) there shall be inserted the following subsection:—
- “(2A) If on application in that behalf the Secretary of State is satisfied that a worker employed or desiring to be employed 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 Secretary of State shall grant him, subject to any conditions he 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.”
- (2) In section 5(3) (revocation of permit), after the words “subsection (1)”, in both places where they occur, there shall be inserted the words “or (2A)”.
- (3) In section 5(4) (variation of condition of permit),
- (a) after the words “subsection (1)” there shall be inserted the words “or (2A)”;
- (b) at the end there shall be inserted the words “and, in the case of 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”.
- (4) In section 5(4A), after the words “subsection (1)” there shall be the words inserted “or (2A)”.
- (5) After section 5(4A) there shall be inserted the following subsection:—
- “(4B) 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

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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”.]

#### Textual Amendments

- F1** Sch. 10 para. 2 repealed (S.) (1.10.2004) by [Agricultural Wages \(Permits to Infirm and Incapacitated Persons\) \(Repeals\) \(Scotland\) Regulations 2004 \(S.S.I. 2004/384\)](#), reg. 1(1), **Sch.**

#### Modifications etc. (not altering text)

- C2** The text of ss. 97(1)–(4), 111(1), 114–116, 125(3), Sch. 9 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 10 Pt.I, Pt.II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1) (2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt.IV paras. 2(1)–(4), 3(1) (2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 3 (1) In section 11(1) (void agreements), at end there shall be added the following paragraph:—

“(c) any term or condition of a contract of employment that is inconsistent with a term or condition of employment fixed by an order of the Board under this Act or any agreement for abstaining from enforcing a term or condition so fixed”.

- (2) In section 11(2) (saving for more favourable agreements), at end there shall be added the words “or a term or condition of a contract of employment that is not inconsistent with a term or condition so fixed”.

#### Modifications etc. (not altering text)

- C3** The text of ss. 97(1)–(4), 111(1), 114–116, 125(3), Sch. 9 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 10 Pt.I, Pt.II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1) (2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt.IV paras. 2(1)–(4), 3(1) (2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 4 (1) In section 12(3)(a) (inspection of records), at the end there shall be added the words “and records of terms and conditions of employment of such workers”.

- (2) In section 12(4), the words from “and in any such civil proceedings” onwards shall be omitted and at the end of that subsection there shall be inserted the following subsections:—

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“(4A) Where it appears to the Secretary of State that a term or condition of employment fixed by order of the Board is not being complied with by an employer, the Secretary of State may institute, on behalf or in the name of the worker, civil proceedings in respect of the failure to comply with the term or condition.

(4B) In any civil proceedings instituted by the Secretary of State by virtue of this section the court shall, if the Secretary of State is not a party to the proceedings, have the same power to make an order for the payment of expenses by the Secretary of State as if he were a party to the proceedings.”.

(3) In section 12, for subsection (5) (saving for ordinary right to bring proceedings) substitute the following subsection:— “ Nothing in subsection (4) or (4A) of this section shall be taken to exclude the bringing otherwise than in accordance with either of those subsections proceedings of any description mentioned in those subsections ”.

**Modifications etc. (not altering text)**

**C4** The text of ss. 97(1)–(4), 111(1), 114–116, 125(3), Sch. 9 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 10 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1) (2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt. IV paras. 2(1)–(4), 3(1) (2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

5 The provisions specified in column 1 of the following Table (which create offences) shall each have effect as if the maximum fine which may be imposed on summary conviction of any offence specified in that provision were a fine not exceeding the amount specified in column 3 of that Table instead of a fine not exceeding the amount specified in column 2 of that Table.

TABLE

<i>Provision</i>	<i>Old maximum fine</i>	<i>New maximum fine</i>
Section 4(1) (failure to pay wages, or arrears, or allow holidays).	£20 and in addition £1 for each day on which the offence is continued after conviction.	[ <sup>F2</sup> level 3 on the standard scale]and an additional £5 for each day on which the offence is continued after conviction.
Section 6(6)(payment of unlawful premiums).	£20	[ <sup>F2</sup> level 3 on the standard scale]
Section 12(6) (hindering officers (paragraph (a)), failure to produce documents or information (paragraph (b)), producing false documents (paragraph (c))	£20	[ <sup>F2</sup> level 3 on the standard scale]in the case of an offence under paragraph (a) or (b) and [ <sup>F2</sup> level 5 on the standard scale]in the case of an offence under paragraph (c) or (d).

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and furnishing  
false information  
(paragraph (d)).

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**Textual Amendments**

**F2** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), **ss. 289F, 289G**

6 In paragraph 6 of Schedule 3 (power to vary and revoke orders), the words from the beginning to “holidays” shall be omitted.

**Modifications etc. (not altering text)**

**C5** The text of ss. 97(1)–(4), 111(1), 114–116, 125(3), Sch. 9 Pt. I, Pt. II paras. 2(1)–4(3), 6, Sch. 10 Pt.I, Pt.II paras. 2(1)–4(3), 6, Sch. 13 paras. 1, 2, 3(1)–(3), 4–7, Sch. 14 paras. 3, 6, Sch. 15 paras. 1–14, 15(1) (2), 16(1)–(4), 17, 18(1)(2), 19–21, Sch. 16 Pt. III paras. 1–3, 5–7, 31–33, Pt.IV paras. 2(1)–(4), 3(1) (2)(4), 4(1)–(5), 6, 7(a)(b), 9(1)–(4), 10(1)–(3), 12(1)–(3), 13(1), 17, 18(1)–(3), Sch. 18 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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