

SCHEDULES

SCHEDULE 1

Sections 1, 7 and 10.

ADVISORY, CONCILIATION AND ARBITRATION SERVICE, ETC.

PART I

CONSTITUTION ETC. OF ADVISORY, CONCILIATION AND ARBITRATION SERVICE AND ITS COUNCIL

The Council

- 1 The Service shall be directed by a Council constituted in accordance with paragraphs 2 to 4 below and shall be a body corporate of which the corporators are the members of that Council.
- 2 (1) The Council shall consist of a full-time chairman appointed by the Secretary of State and, subject to sub-paragraphs (3)(6) and (4) below, nine other members appointed by the Secretary of State in accordance with sub-paragraph (2) below.
- (2) Before appointing the members of the Council (other than the chairman and any deputy chairman appointed as mentioned in sub-paragraph (3)(b) below) the Secretary of State shall—
- (a) as to three of them, consult such organisations representing employers as he considers appropriate ; and
 - (b) as to three of them, consult such organisations representing workers as he considers appropriate.
- (3) The Secretary of State may appoint up to three full-time or part-time deputy chairmen of the Council who may be appointed—
- (a) from the members appointed in accordance with subparagraph (2) above or sub-paragraph (4) below ; or
 - (b) in addition to those members.
- (4) The Secretary of State may, if he thinks fit, appoint a further two members of the Council (who shall be appointed so as to take office at the same time) and before making those appointments he shall—
- (a) as to one of them, consult such organisations representing employers as he considers appropriate ; and
 - (b) as to one of them, consult such organisations representing workers as he considers appropriate.
- 3 (1) Subject to the following provisions of this paragraph, the members, chairman and any deputy chairman of the Council shall hold and vacate office in accordance with their terms of appointment.

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- (2) A person shall not be appointed to the Council for a term exceeding five years; but previous membership shall not affect eligibility for re-appointment.
- (3) The Secretary of State may appoint persons to the Council either as full-time members or as part-time members.
- (4) The Secretary of State may, with the consent of the member concerned, vary the terms of appointment of any member of the Council so as to provide for him to serve as a full-time member instead of a part-time member or, as the case may be, as a part-time member instead of as a full-time member.
- (5) A member may at any time resign his membership, and the chairman and any deputy chairman may at any time resign his office as such, by, in each case, notice in writing addressed to the Secretary of State.
- (6) A deputy chairman appointed as mentioned in paragraph 2(3)(b) above shall on resigning his office as deputy chairman cease to be a member of the council.
- (7) If the Secretary of State is satisfied that a member—
- (a) has been absent from meetings of the Council for a period longer than six consecutive months without the permission of the Council; or
 - (b) has become bankrupt or made an arrangement with his creditors ; or
 - (c) is incapacitated by physical or mental illness ; or
 - (d) is otherwise unable or unfit to discharge the functions of a member,
- the Secretary of State may declare his office as a member to be vacant and shall notify the declaration in such manner as the Secretary of State thinks fit; and thereupon the office shall become vacant.
- (8) If the application of sub-paragraph (7) above to Scotland for the references in paragraph (b) to a member's having become bankrupt and to a member's having made an arrangement with his creditors there shall be substituted respectively references to a member's estate having been sequestrated and to a member's having made a trust deed for behoof of his creditors or a composition contract.
- (9) If the chairman ceases to be a member of the Council, or if a deputy chairman ceases to be a member of the Council, he shall cease to be chairman or, as the case may be, a deputy chairman.
- 4 (1) The Council shall determine its own procedure, including the quorum necessary for its meetings.
- (2) If the Secretary of State has not appointed a deputy chairman the Council may choose a member to act as chairman in the absence or incapacity of the chairman.
- 5 The validity of any proceedings of the Council shall not be affected by any vacancy among the members of the Council or by any defect in the appointment of any member of the Council.

Staff

- 6 The Service may, with the approval of the Secretary of State, appoint a secretary, such an appointment shall not be made without the consent as to terms and conditions of service of the Secretary of State, and such consent shall not be given without the approval of the Minister for the Civil Service.

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7 The Service may appoint such other officers and servants as it may determine with the consent as to numbers, manner of appointment and terms and conditions of service of the Secretary of State ; and such consent shall not be given without the approval of the Minister for the Civil Service.

8 The Service shall provide for the Certification Officer and the Committee the requisite staff (from among the Service's officers and servants) and the requisite accommodation, equipment and other facilities.

Supplemental

9 The Service shall maintain offices in such of the major centres of employment in Great Britain as it thinks fit for the purpose of discharging its functions under any enactment.

10 (1) The fixing of the common seal of the Service shall be authenticated by the signature of the secretary of the Service or some other person authorised by the Service to act for that purpose.

(2) A document purporting to be duly executed under the seal of the Service shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

11 (1) The functions of the Service and of its officers and servants shall be performed on behalf of the Crown, but, subject to paragraph 35 below, the Service shall not be subject to directions of any kind from any Minister of the Crown as to the manner in which it is to exercise any of its functions under any enactment.

(2) For the purposes of any civil proceedings arising out of those functions, the Crown Proceedings Act 1947 and the Crown Suits (Scotland) Act 1857 shall apply to the Service as if it were a government department within the meaning of the said Act of 1947 or, as the case may be, a public department within the meaning of the said Act of 1857.

12 Nothing in section 9 of the Statistics of Trade Act 1947 (restriction on the disclosure of information obtained under that Act) shall prevent or penalise the disclosure to the Service for the purpose of the exercise of any of its functions, of information obtained under that Act by any government department.

13 (1) The Service shall, as soon as practicable after the end of each calendar year, make a report to the Secretary of State on its activities and the activities of the Central Arbitration Committee during that year.

(2) The Certification Officer shall, as soon as practicable after the end of each calendar year, make a report of his activities during that year to the Service and to the Secretary of State.

(3) The Secretary of State shall lay before each House of Parliament a copy of every report received by him under sub-paragraph (1) or sub-paragraph (2) above and shall arrange for it to be published.

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PART II

CENTRAL ARBITRATION COMMITTEE

Constitution

- 14 (1) The Committee shall consist of a chairman appointed by the Secretary of State after consultation with the Service and other members appointed by the Secretary of State in accordance with sub-paragraph (2) below.
- (2) The members of the Committee (apart from the chairman) shall be appointed by the Secretary of State from persons nominated by the Service as experienced in industrial relations and shall include some persons whose experience is as representatives of employers and some persons whose experience is as representatives of workers.
- (3) The Secretary of State may, after consultation with the Service, appoint one or more deputy chairmen of the Committee in addition to the existing members of the Committee.
- 15 (1) Subject to the following provisions of this paragraph, the members, chairman and any deputy chairman of the Committee shall hold and vacate office in accordance with their terms of appointment.
- (2) A person shall not be appointed to the Committee for a term exceeding five years ; but previous membership shall not affect eligibility for re-appointment.
- (3) The Secretary of State may, with the consent of the member concerned, vary the terms of appointment of any member of the Committee so as to provide for him to serve as a full-time member instead of a part-time member or, as the case may be, as a part-time member instead of as a full-time member.
- (4) A member may at any time resign his membership, and the chairman and any deputy chairman may at any time resign his office as such, by, in each case, notice in writing addressed to the Secretary of State.
- (5) If the Secretary of State is satisfied that a member—
- (a) has become bankrupt or made an arrangement with his creditors ; or
 - (b) is incapacitated by physical or mental illness ; or
 - (c) is otherwise unable or unfit to discharge the functions of a member,
- the Secretary of State may declare his office as a member to be vacant and shall notify the declaration in such manner as the Secretary of State thinks fit; and thereupon the office shall become vacant.
- (6) In the application of sub-paragraph (5) above to Scotland for the references in paragraph (a) to a member's having become bankrupt and to a member's having made an arrangement with his creditors there shall be substituted respectively references to a member's estate having been sequestrated and to a member's having made a trust deed for behoof of his creditors or a composition contract.
- (7) If the chairman ceases to be a member of the Committee, or if a deputy chairman ceases to be a member of the Committee, he shall cease to be chairman or, as the case may be, a deputy chairman.
- 16 (1) At any time when the chairman of the Committee is absent or otherwise incapable of acting, or there is a vacancy in the office of chairman, and the Committee has a deputy chairman or deputy chairmen—

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- (a) the deputy chairman, if there is only one ; or
 - (b) if there is more than one deputy chairman, such one of them as they may agree or, in default of agreement, as the Secretary of State may direct,
- may perform any of the functions of the chairman of the Committee.

- (2) At any time when every person who is chairman or deputy chairman of the Committee is absent or otherwise incapable of acting, or there is no such person, such member of the Committee as the Secretary of State may direct, may perform any of the functions of the chairman of the Committee.

Proceedings

- 17 (1) For the purpose of discharging any of its functions under this or any other enactment, the Committee shall, subject to sub-paragraph (2) below, consist of the chairman and such other members as the chairman may direct.
- (2) The Committee may sit in two or more divisions constituted of such members as the chairman may direct, and in a division in which the chairman does not sit the functions of the chairman shall be performed by a deputy chairman.
- (3) The Committee may, at the discretion of the chairman, where it appears expedient to do so, call in the aid of one or more assessors, and may settle the matter wholly or partly with their assistance.
- 18 The Committee may at the discretion of the chairman sit in private where it appears expedient to do so.
- 19 If in any case the Committee cannot reach a unanimous decision on its award the chairman shall decide the matter acting with the full powers of an umpire, or, in Scotland, an oversman.
- 20 Subject to paragraphs 17 to 19 above, the Committee shall determine its own procedure.
- 21 The validity of any proceedings of the Committee shall not be affected by any vacancy among the members of the Committee or by any defect in the appointment of any member of the Committee.

Awards

- 22 The Committee may correct in any award any clerical mistake or error arising from an accidental slip or omission.
- 23 (1) If any question arises as to the interpretation of an award of the Committee, any party to the award may apply to the Committee for a decision on that question.
- (2) The Committee shall decide the question after hearing the parties or, if the parties consent, without a hearing, and shall notify the parties of the decision.
- 24 Decisions of the Committee in the exercise of any of its functions conferred by any enactment shall be published.

Supplemental

- 25 For the purpose of assisting the Service in the discharge of its duty under paragraph 13(1) above, the Committee shall, as soon as practicable after the end of each calendar year, transmit to the Service an account of its activities during that year.

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26 Part I of the Arbitration Act 1950 shall not apply to any proceedings of the Committee.

27 The functions of the Committee shall be performed on behalf of the Crown, but the Committee shall not be subject to directions of any kind from any Minister of the Crown as to the manner in which it is to exercise any of its functions under any enactment.

PART III

SUPPLEMENTARY PROVISIONS

Remuneration and allowances

28 The Service shall pay to—
 (a) members of the Council of the Service ;
 (b) members of the Central Arbitration Committee ; and
 (c) the Certification Officer and any assistant certification officer,
 such remuneration and travelling and other allowances as may be determined by the Secretary of State with the approval of the Minister for the Civil Service.

29 The Service may pay to—
 (a) persons appointed under section 2(2) above who are not officers or servants of the Service ; and
 (b) arbitrators or arbiters appointed by the Service under any provision of this Act or any other enactment,
 such fees and travelling and other allowances as may be determined by the Secretary of State with the approval of the Minister for the Civil Service.

Sums payable on retirement

30 The Secretary of State may pay, or make provision for paying, to, or in respect of, any holder of an office mentioned in paragraph 28 above, such pension, allowance or gratuity on the death or retirement of that office-holder as he may, with the approval of the Minister for the Civil Service, determine.

31 Where a person ceases to be the holder of an office mentioned in paragraph 28 above otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Secretary of State may make him a payment of such amount as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

32 The Service shall pay to the Minister for the Civil Service, at such times in each accounting year as may be determined by that Minister subject to any directions of the Treasury, sums of such amounts as he may so determine for the purpose of this paragraph as being equivalent to the increase during that year of such liabilities of his as are attributable to the provision of pensions, allowances or gratuities to or in respect of persons who are or have been in the service of the Service in so far as that increase results from the service of those persons during that accounting year and to the expense to be incurred in administering those pensions, allowances or gratuities.

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Expenses

- 33 The Secretary of State shall pay to the Service such sums as are approved by the Treasury and as he considers appropriate for the purpose of enabling the Service to perform its functions.

Accounts

- 34 It shall be the duty of the Service to keep proper accounts and proper records in relation to the accounts.
- 35 (1) The Service shall prepare in respect of each accounting year a statement of accounts, in particular showing separately any sums disbursed to or on behalf of the Committee or the Certification Officer in consequence of the foregoing provisions of this Schedule, in such form as the Secretary of State may direct with the approval of the Treasury.
- (2) The Service shall, not later than 30th November following the end of the accounting year to which the statement relates, send copies of the statement to the Secretary of State and to the Comptroller and Auditor General, and the Comptroller and Auditor General shall examine, certify and report on each such statement and shall lay copies of each statement and of his report before each House of Parliament.
- (3) In this paragraph " accounting year " means the period of 12 months ending with 31st March in any year except that the first accounting year of the Service shall, if the Secretary of State so directs, be such period shorter or longer than 12 months (but not longer than two years) as is specified in the direction.

SCHEDULE 2

Section 29.

PROVISIONS LEADING TO SUSPENSION ON MEDICAL GROUNDS

1.	The Paints and Colours Manufacture Regulations 1907.	S.R. & O. 1907 No. 17	Reg. 5.
2.	The Yarn (Dyed by Lead Compounds) Heading Regulations 1907.	S.R. & O. 1907 No. 616	Reg. 4.
3.	The Vitreous Enamelling Regulations 1908.	S.R. & O. 1908 No. 1258	Reg. 10.
4.	The Tinning of Metal Hollow-ware, Iron Drums and Harness Furniture Regulations 1909.	S.R. & O. 1909 No. 720	Reg. 6.
5.	The Lead Smelting and Manufacture Regulations 1911.	S.R. & O. 1911 No. 752	Reg. 13.

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6.	The Lead Compounds Manufacture Regulations 1921.	S.R. & O. 1921 No. 1443	Reg. 11.
7.	The India Rubber Regulations 1922.	S.R. & O. 1922 No. 329	Reg. 12.
8.	The Chemical Works Regulations 1922.	S.R. & O. 1922 No. 731	Reg. 30.
9.	The Electric Accumulator Regulations 1925.	S.R. & O. 1925 No. 28	Reg. 13.
10.	The Lead Paint Regulations 1927	S.R. & O. 1927 No. 847	Reg. 6.
11.	The Pottery (Health and Welfare) Special Regulations 1950.	S.I. 1950 No. 65	Reg. 7.
12.	The Factories Act 1961	1961 c. 34	Section 75(2) (including that section as extended by section 128).
13.	The Ionising Radiations (Unsealed Radioactive Substances) Regulations 1968.	S.I. 1968 No. 780	Regs. 12 and 33.
14.	The Ionising Radiations (Sealed Sources) Regulations 1969.	S.I. 1969 No. 808	Regs. 11 and 30.
15.	The Radioactive Substances (Road Transport Workers) (Great Britain) Regulations 1970.	S.I. 1970 No. 1827	Reg. 14.

SCHEDULE 3

Section 50.

SUPPLEMENTARY PROVISIONS AS TO MATERNITY

Introductory

- 1 References in this Schedule to provisions of this Act and the 1974 Act relating to unfair dismissal and to provisions of the Redundancy Payments Act 1965 are references to those provisions as they apply by virtue of section 50 above.

Status: This is the original version (as it was originally enacted).

Adaptation of unfair dismissal provisions

- 2 (1) Paragraph 6 of Schedule 1 to the 1974 Act (fair and unfair dismissal) shall have effect as if for sub-paragraph (8) there were substituted the following sub-paragraph:—
- “(8) Subject to sub-paragraphs (4), (6) and (7) above, the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether the employer can satisfy the tribunal that in the circumstances (having regard to equity and the substantial merits of the case) he would have been acting reasonably in treating it as a sufficient reason for dismissing the employee if she had not been absent from work.”.
- (2) If in the circumstances described in section 48(4) above no offer is made of such alternative employment as is referred to in that subsection, then the dismissal which by virtue of section 50 above is treated as taking place shall, notwithstanding anything in paragraph 6 of that Schedule, be treated as an unfair dismissal for the purposes of that Schedule.
- (3) The following references shall be construed as references to the notified day of return, that is to say—
- (a) references in that Schedule and in section 74 above to the effective date of termination ;
- (b) references in section 71 above to the date of termination of employment.
- (4) The following provisions of that Schedule shall not apply, that is to say, paragraphs 5, 6(5), 9 to 14, and 30(1A).
- (5) The following provisions of this Act shall not apply, that is to say, sections 72(7), 74(4), (6) and (7) and 75(1) to (3) and (6).
- (6) For the purposes of Part II of Schedule 4 to this Act as it applies for the calculation of a week's pay for the purposes of section 72 or 74 above, the calculation date is the last day on which the employee worked under the original contract of employment.

Adaptation of redundancy payments provisions

- 3 (1) References in the Redundancy Payments Act 1965 shall be adapted as follows, that is to say—
- (a) references to the relevant date, wherever they occur, shall be construed, except where the context otherwise requires, as references to the notified day of return ;
- (b) references in sections 2(4) and 3(3) of that Act (offer of alternative employment) to a renewal or re-engagement taking effect immediately on the ending of employment under the previous contract or after an interval of not more than four weeks thereafter, shall be construed as references to a renewal or re-engagement taking effect on the notified day of return or not more than four weeks after that day ; and
- (c) references in section 3(5) of that Act (trial period) to the provisions of the previous contract shall be construed as references to the provisions of the original contract of employment.
- (2) Nothing in section 50 above shall prevent an employee from being treated, by reason of the operation of section 3(3) of the said Act of 1965, as not having been dismissed for the purposes of that Act.

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- (3) The following provisions of the said Act of 1965 shall not apply, that is to say, sections 1(1)(6), 2(1) and (2), 3(1), (2) and (10), 4 to 7, 10, 11, 16(2) and (3), 22, 23 and 40, paragraphs 4 and 5(3) and (7) of Schedule 1 and Schedule 4.
- (4) For the purposes of Part II of Schedule 4 to this Act as it applies for the calculation of a week's pay for the purposes of Schedule 1 to the said Act of 1965 (computation of redundancy payments), the calculation date is the last day on which the employee worked under the original contract of employment.

Dismissal during period of absence

- 4 (1) This paragraph applies to the dismissal of an employee who is under the foregoing provisions of this Act entitled to return to work and whose contract of employment continues to subsist during the period of her absence but who is dismissed by her employer during that period after the beginning of the 11th week before the expected week of confinement.
- (2) For the purposes of sub-paragraph (1) above an employee shall not be taken to be dismissed during the period of her absence if the dismissal occurs in the course of the employee's attempting to return to work in accordance with her contract in circumstances in which paragraph 5 below applies.
- (3) In the application of Schedule 1 to the 1974 Act to a dismissal to which this paragraph applies, the following provisions shall not apply, that is to say, paragraphs 6(5), 9, 10, 11, 13 and 14.
- (4) Any such dismissal shall not affect the employee's right to return to work, but—
- (a) compensation in any unfair dismissal proceedings arising out of that dismissal shall be assessed without regard to the employee's right to return ; and
 - (b) that right shall be exercisable only on her repaying any redundancy payment or compensation for unfair dismissal paid in respect of that dismissal, if the employer requests such repayment.

Contractual right to return

- 5 (1) An employee who has a right both under this Act and under a contract of employment, or otherwise, to return to work, may not exercise the two rights separately but may in returning to work take advantage of whichever right is, in any particular respect, the more favourable.
- (2) The provisions of sections 48 to 50 and paragraphs 1 to 4 above, shall apply, subject to any modifications necessary to give effect to any more favourable contractual terms, to the exercise of the composite right described in sub-paragraph (1) above as they apply to the exercise of the right to return conferred solely by this Act.

Prior redundancy

- 6 If in proceedings arising out of a failure to permit an employee to return to work, the employer shows—
- (a) that the reason for the failure is that the employee is redundant; and
 - (b) that the employee was dismissed or, had she continued to be employed by him, would have been dismissed, by reason of redundancy during her

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absence on a day earlier than the notified day of return and falling after the beginning of the 11th week before the expected week of confinement, then, for the purposes of the Redundancy Payments Act 1965 the employee—

- (i) shall not be treated as having been dismissed with effect from the notified day of return ; but
- (ii) shall, if she would not otherwise be so treated, be treated as having been continuously employed until that earlier day and as having been dismissed by reason of redundancy with effect from that day.

Power to amend or modify

- 7
- (1) The Secretary of State may by order amend the provisions of this Schedule or modify the application of those provisions to any description of case.
 - (2) No order under this paragraph shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

SCHEDULE 4

Section 85.

CALCULATION OF NORMAL WORKING HOURS AND A WEEK'S PAY

PART I

NORMAL WORKING HOURS

- 1 For the purposes of this Schedule the cases where there are normal working hours include cases where the employee is entitled to overtime pay when employed for more than a fixed number of hours in a week or other period, and, subject to paragraph 2 below, in those cases that fixed number of hours shall be the normal working hours.
- 2 If in such a case—
- (a) the contract of employment fixes the number, or the minimum number, of hours of employment in the said week or other period (whether or not it also provides for the reduction of that number or minimum in certain circumstances), and
 - (b) that number or minimum number of hours exceeds the number of hours without overtime,
- that number or minimum number of hours (and not the number of hours without overtime) shall be the normal working hours.

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PART II

A WEEK'S PAY

Employments for which there are normal working hours

- 3 (1) This paragraph and paragraph 4 below shall apply if there are normal working hours for an employee when employed under the contract of employment in force on the calculation date.
- (2) Subject to paragraph 4 below, if an employee's remuneration for employment in normal working hours, whether by the hour or week or other period, does not vary with the amount of work done in the period, the amount of a week's pay shall be the amount which is payable by the employer under the contract of employment in force on the calculation date if the employee works throughout his normal working hours in a week.
- (3) Subject to paragraph 4 below, if sub-paragraph (2) above does not apply, the amount of a week's pay shall be the amount of remuneration for the number of normal working hours in a week calculated at the average hourly rate of remuneration payable by the employer to the employee in respect of the period of 12 weeks—
- (a) where the calculation date is the last day of a week, ending with that week;
 - (b) in any other case, ending with the last complete week before the calculation date.
- (4) References in this paragraph to remuneration varying with the amount of work done include references to remuneration which may include any commission or similar payment which varies in amount.
- 4 (1) This paragraph shall apply if there are normal working hours for an employee when employed under the contract of employment in force on the calculation date, and he is required under that contract to work during those hours on days of the week or at times of the day which differ from week to week or over a longer period so that the remuneration payable for, or apportionable to, any week varies according to the incidence of the said days or times.
- (2) The amount of a week's pay shall be the amount of remuneration for the average weekly number of normal working hours (calculated in accordance with sub-paragraph (3) below) at the average hourly rate of remuneration (calculated in accordance with sub-paragraph (4) below).
- (3) The average number of weekly hours shall be calculated by dividing by 12 the total number of the employee's normal working hours during the period of 12 weeks—
- (a) where the calculation date is the last day of a week, ending with that week;
 - (b) in any other case, ending with the last complete week before the calculation date.
- (4) The average hourly rate of remuneration shall be the average hourly rate of remuneration payable by the employer to the employee in respect of the period of 12 weeks—
- (a) where the calculation date is the last day of a week, ending with that week ;
 - (b) in any other case, ending with the last complete week before the calculation date.

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- 5
- (1) For the purpose of paragraphs 3 and 4 above, in arriving at the average hourly rate of remuneration only the hours when the employee was working, and only the remuneration payable for, or, apportionable to, those hours of work, shall be brought in; and if for any of the 12 weeks mentioned in either of those paragraphs no such remuneration was payable by the employer to the employee, account shall be taken of remuneration in earlier weeks so as to bring the number of weeks of which account is taken up to 12.
 - (2) Where, in arriving at the said hourly rate of remuneration, account has to be taken of remuneration payable for, or apportionable to, work done in hours other than normal working hours, and the amount of that remuneration was greater than it would have been if the work had been done in normal working hours, account shall be taken of that remuneration as if—
 - (a) the work had been done in normal working hours ; and
 - (b) the amount of that remuneration had been reduced accordingly.
 - (3) For the purpose of the application of sub-paragraph (2) above to a case falling within paragraph 2 above, sub-paragraph (2) shall be construed as if for the words " had been done in normal working hours ", in each place where those words occur, there were substituted the words " had been done in normal working hours falling within the number of hours without overtime ".

Employments for which there are no normal working hours

- 6
- (1) This paragraph shall apply if there are no normal working hours for an employee when employed under the contract of employment in force on the calculation date.
 - (2) The amount of a week's pay shall be the amount of the employee's average weekly remuneration in the period of 12 weeks—
 - (a) where the calculation date is the last day of a week, ending with that week;
 - (b) in any other case, ending with the last complete week before the calculation date.
 - (3) In arriving at the said average weekly rate of remuneration no account shall be taken of a week in which no remuneration was payable by the employer to the employee and remuneration in earlier weeks shall be brought in so as to bring the number of weeks of which account is taken up to 12.

Supplemental

- 7
- In any case in which an employee has not been employed for a sufficient period to enable a calculation to be made under any of the foregoing provisions of this Part of this Schedule, the amount of a week's pay shall be an amount which fairly represents a week's pay; and in determining that amount the tribunal shall apply as nearly as may be such of the foregoing provisions of this Part as it considers appropriate, and may have regard to such of the following considerations as it thinks fit, that is to say—
- (a) any remuneration received by the employee in respect of the employment in question ;
 - (b) the amount offered to the employee as remuneration in respect of the employment in question ;
 - (c) the remuneration received by other persons engaged in relevant comparable employment with the same employer ;

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- (d) the remuneration received by other persons engaged in relevant comparable employment with other employers.
- 8 In arriving at an average hourly rate or average weekly rate of remuneration under this Part of this Schedule—
- (a) account shall be taken of work for a former employer within the period for which the average is to be taken if, by virtue of Schedule 1 to the Contracts of Employment Act 1972 (computation of period of employment) a period of employment with the former employer counts as part of the employee's continuous period of employment with the later employer, and
- (b) " week " means, for an employee whose remuneration is calculated weekly by a week ending with a day other than Saturday, a week ending with that other day, and, for other employees, means a week ending with Saturday.
- 9 Where under this Part of this Schedule account is to be taken of remuneration or other payments for a period which does not coincide with the periods for which the remuneration or other payments are calculated, then the remuneration or other payments shall be apportioned in such manner as may be just.
- 10 The Secretary of State may by regulations provide that in prescribed cases the amount of a week's pay shall be calculated in such manner as the regulations may prescribe.

SCHEDULE 5

Section 85.

SCHEDULE 2 TO THE CONTRACTS OF EMPLOYMENT ACT 1972, AS SUBSTITUTED

RIGHTS OF EMPLOYEE IN PERIOD OF NOTICE

Preliminary

- 1 (1) In this Schedule—
- (a) the " period of notice " means the period of notice required by section 1(1) or, as the case may be, section 1(2) of this Act; and
- (b) " normal working hours " shall be construed in accordance with Part I of Schedule 4 to the Employment Protection Act 1975.
- (2) For the purposes of Part II of Schedule 4 to the Employment Protection Act 1975 as it applies for the calculation of a week's pay for the purposes of this Schedule, the calculation date is the day immediately preceding the first day of the period of notice.

Employments for which there are normal working hours

- 2 (1) If an employee has normal working hours under the contract of employment in force during the period of notice, and if during any part of those normal working hours—
- (a) the employee is ready and willing to work but no work is provided for him by his employer ; or
- (b) the employee is incapable of work because of sickness or injury; or
- (c) the employee is absent from work in accordance with the terms of his employment relating to holidays,

then the employer shall be liable to pay the employee for the part of normal working hours covered by paragraphs (a) (b) and (c) above a sum not less than the amount of remuneration for that part of normal working hours calculated at the average hourly rate of remuneration produced by dividing a week's pay by the number of normal working hours.

- (2) Any payments made to the employee by his employer in respect of the relevant part of the period of notice whether by way of sick pay, holiday pay or otherwise, shall go towards meeting the employer's liability under this paragraph.
- (3) Where notice was given by the employee, the employer's liability under this paragraph shall not arise unless and until the employee leaves the service of the employer in pursuance of the notice.

Employments for which there are no normal working hours

- 3 (1) If an employer does not have normal working hours under the contract of employment in force in the period of notice the employer shall be liable to pay the employee for each week of the period of notice a sum not less than a week's pay.
- (2) Subject to the next following sub-paragraph, the employer's obligation under this paragraph shall be conditional on the employee being ready and willing to do work of a reasonable nature and amount to earn a week's pay.
- (3) Sub-paragraph (2) shall not apply—
 - (a) in respect of any period during which the employee is incapable of work because of sickness or injury, or
 - (b) in respect of any period during which the employee is absent from work in accordance with the terms of his employment relating to holidays,and any payment made to an employee by his employer in respect of such a period, whether by way of sick pay, holiday pay or otherwise, shall be taken into account for the purposes of this paragraph as if it were remuneration paid by the employer in respect of that period.
- (4) Where the notice was given by the employee, the employer's liability under this paragraph shall not arise unless and until the employee leaves the service of the employer in pursuance of the notice.

Sickness or industrial injury benefit

- 4 (1) The following provisions of this paragraph shall have effect where the arrangements in force relating to the employment are such that—
 - (a) payments by way of sick pay are made by the employer to employees to whom the arrangements apply, in cases where any such employees are incapable of work because of sickness or injury and
 - (b) in calculating any payment so made to any such employee an amount representing, or treated as representing, sickness benefit or industrial injury benefit is taken into account, whether by way of deduction or by way of calculating the payment as a supplement to that amount.
- (2) If during any part of the period of notice the employee is incapable of work because of sickness or injury, and—

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- (a) one or more payments, by way of sick pay are made to him by the employer in respect of that part of the period of notice, and
 - (b) in calculating any such payment such an amount as is referred to in subparagraph (1)(b) of this paragraph is taken into account as therein mentioned,
- then for the purposes of this Schedule the amount so taken into account shall be treated as having been paid by the employer to the employee by way of sick pay in respect of that part of that period, and shall go towards meeting the liability of the employer under paragraph 2 or paragraph 3 of this Schedule accordingly.

Absence on leave granted at request of employee

- 5 The employer shall not be liable under the foregoing provisions of this Schedule to make any payment in respect of a period during which the employee is absent from work with the leave of the employer granted at the request of the employee (including any period of time off taken in accordance with section 57, 58, 59 or 61 of the Employment Protection Act 1975).

Notice given before a strike

- 6 No payment shall be due under this Schedule in consequence of a notice to terminate a contract given by an employee if, after the notice is given and on or before the termination of the contract, the employee takes part in a strike of employees of the employer. In this paragraph " strike " has the same meaning as in Schedule 1 to this Act.

Termination of employment during period of notice

- 7 (1) If, during the period of notice, the employer breaks the contract of employment, payments received under this Schedule in respect of the part of the period after the breach shall go towards mitigating the damages recoverable by the employee for loss of earnings in that part of the period of notice.
- (2) If, during the period of notice, the employee breaks the contract and the employer rightfully treats the breach as terminating the contract, no payment shall be due to the employee under this Schedule in respect of the part of the period of notice falling after the termination of the contract.

SCHEDULE 6

Section 87.

EMPLOYMENT APPEAL TRIBUNAL

PART I

PROVISIONS AS TO MEMBERSHIP, SITTINGS, PROCEEDINGS AND POWERS

Tenure of office of appointed members of Appeal Tribunal

- 1 Subject to paragraphs 2 and 3 below, a member of the Appeal Tribunal appointed by Her Majesty under section 87(2)(c) above (in this Schedule referred to as an "

Status: This is the original version (as it was originally enacted).

appointed member ") shall hold and vacate office as such a member in accordance with the terms of his appointment.

2 An appointed member may at any time resign his membership by notice in writing addressed to the Lord Chancellor and the Secretary of State.

3 (1) If the Lord Chancellor, after consultation with the Secretary of State, is satisfied that an appointed member—

(a) has been absent from sittings of the Appeal Tribunal for a period longer than six consecutive months without the permission of the President of the Tribunal; or

(b) has become bankrupt or made an arrangement with his creditors; or

(c) is incapacitated by physical or mental illness ; or

(d) is otherwise unable or unfit to discharge the functions of a member;

the Lord Chancellor may declare his office as a member to be vacant and shall notify the declaration in such manner as the Lord Chancellor thinks fit; and thereupon the office shall become vacant

(2) In the application of this paragraph to Scotland for the references in sub-paragraph (1) (b) above to a member's having become bankrupt and to a member's having made an arrangement with his creditors there shall be substituted respectively references to a member's estate having been sequestrated and to a member's having made a trust deed for behoof of his creditors or a composition contract

Temporary membership of Appeal Tribunal

4 At any time when the office of President of the Appeal Tribunal is vacant, or the person holding that office is temporarily absent or otherwise unable to act as president of the Tribunal, the Lord Chancellor may nominate another judge nominated under section 87(2)(a) above to act temporarily in his place.

5 At any time when a judge of the Appeal Tribunal nominated by the Lord Chancellor is temporarily absent or otherwise unable to act as a judge of that Tribunal, the Lord Chancellor may nominate another person who is qualified to be nominated under section 87(2)(a) above to act temporarily in his place.

6 At any time when a judge of the Appeal Tribunal nominated by the Lord President of the Court of Session is temporarily absent or otherwise unable to act as a judge of the Appeal Tribunal, the Lord President may nominate another judge of the Court of Session to act temporarily in his place.

7 At any time when an appointed member is temporarily absent or otherwise unable to act as a member of the Appeal Tribunal, the Lord Chancellor and the Secretary of State may jointly appoint a person appearing to them to have the qualifications for appointment as such a member to act temporarily in his place.

8 A person appointed to act temporarily in place of the President or any other member of the Appeal Tribunal shall, when so acting, have all the functions of the person in whose place he acts.

9 No judge shall be nominated under paragraph 5 or 6 above except with his consent.

Organisation and sittings of Appeal Tribunal

10 The Appeal Tribunal shall be a superior court of record and shall have an official seal which shall be judicially noticed.

Status: This is the original version (as it was originally enacted).

- 11 The Appeal Tribunal shall have a central office in London.
- 12 The Appeal Tribunal may sit at any time and in any place in Great Britain.
- 13 The Appeal Tribunal may sit, in accordance with directions given by the President of the Tribunal, either as a single tribunal or in two or more divisions concurrently.
- 14 With the consent of the parties to any proceedings before the Appeal Tribunal, the proceedings may be heard by a judge and one appointed member, but, in default of such consent, any proceedings before the Tribunal shall be heard by a judge and either two or four appointed members, so that in either case there are equal numbers of persons whose experience is as representatives of employers and whose experience is as representatives of workers.

Rules

- 15 (1) The Lord Chancellor, after consultation with the Lord President of the Court of Session, shall make rules with respect to proceedings before the Appeal Tribunal.
- (2) Subject to those rules, the Tribunal shall have power to regulate its own procedure.
- 16 (1) Without prejudice to the generality of paragraph 15 above, the rules may include provision—
- (a) with respect to the manner in which an appeal may be brought and the time within which it may be brought;
 - (b) for requiring persons to attend to give evidence and produce documents, and for authorising the administration of oaths to witnesses ;
 - (c) enabling the Appeal Tribunal to sit in private for the purpose of hearing evidence to hear which an industrial tribunal may sit in private by virtue of paragraph 21(5) of Schedule 1 to the 1974 Act.
- 17 (1) Without prejudice to the generality of paragraph 15 above, the rules may empower the Appeal Tribunal to order a party to any proceedings before the Tribunal to pay to any other party to the proceedings the whole or part of the costs or expenses incurred by that other party in connection with the proceedings, where in the opinion of the Tribunal—
- (a) the proceedings were unnecessary, improper or vexatious, or
 - (b) there has been unreasonable delay or other unreasonable conduct in bringing or conducting the proceedings.
- (2) Except as provided by sub-paragraph (1) above, the rules shall not enable the Appeal Tribunal to order the payment of costs or expenses by any party to proceedings before the Tribunal.
- 18 Any person may appear before the Appeal Tribunal in person or be represented by counsel or by a solicitor or by a representative of a trade union or an employers' association or by any other person Whom he desires to represent him.

Powers of Tribunal

- 19 (1) For the purpose of disposing of an appeal the Appeal Tribunal may exercise any powers of the body or officer from whom the appeal was brought or may remit the case to that body or officer.

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- (2) Any decision or award of the Appeal Tribunal on an appeal shall have the same effect and may be enforced in the same manner as a decision or award of a body or officer from whom the appeal was brought.
- 20 (1) The Appeal Tribunal shall, in relation to the attendance and examination of witnesses, the production and inspection of documents and all other matters incidental to its jurisdiction, have the like powers, rights, privileges and authority—
- (a) in England and Wales, as the High Court,
 - (b) in Scotland, as the Court of Session.
- (2) No person shall be punished for contempt of the Tribunal except by, or with the consent of, a judge.
- 21 (1) In relation to any fine imposed by the Appeal Tribunal for contempt of the Tribunal, section 14 of the Criminal Justice Act 1948 and section 47 of the Criminal Justice Act 1967 (which relate to fines imposed and recognizances forfeited at certain courts) shall have effect as if in those provisions any reference to the Crown Court included a reference to the Tribunal.
- (2) A magistrates' court shall not remit the whole or any part of a fine imposed by the Appeal Tribunal except with the consent of a judge who is a member of the Tribunal.
- (3) This paragraph does not extend to Scotland.

Staff

- 22 The Secretary of State may appoint such officers and servants of the Appeal Tribunal as he may determine, subject to the approval of the Minister for the Civil Service as to numbers and as to terms and conditions of service.

PART II

SUPPLEMENTARY

Remuneration and allowances

- 23 The Secretary of State shall pay the appointed members of the Appeal Tribunal, the persons appointed to act temporarily as appointed members, and the officers and servants of the Tribunal such remuneration and such travelling and other allowances as he may with the approval of the Minister for the Civil Service determine.

Pensions, etc.

- 24 If the Secretary of State determines, with the approval of the Minister for the Civil Service, that this paragraph shall apply in the case of an appointed member, the Secretary of State shall pay such pension, allowance or gratuity to or in respect of that member on his retirement or death or make that member such payments towards the provision of such a pension, allowance or gratuity as the Secretary of State may with the like approval determine.
- 25 Where a person ceases to be an appointed member otherwise than on his retirement or death and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Secretary of State may

Status: This is the original version (as it was originally enacted).

make him a payment of such amount as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

SCHEDULE 7

Section 89.

AMENDMENTS OF WAGES COUNCILS ACT 1959

PART I

SECTION 11, AS SUBSTITUTED

Note: This Part of the Schedule reproduces section 11 with amendments enabling wages councils, instead of the Secretary of State, to make orders under that section and enabling wages councils to fix other terms and conditions of employment as well as remuneration and holidays and to specify the date from which remuneration fixed by them is to be payable.

“11 Power to fix terms and conditions of employment

- (1) A wages 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.
- (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.
- (2A) 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.
- (3) Before making an order under this section, a wages 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

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- (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.
- (3A) 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 wages 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 (3) of this section, and that subsection and this subsection shall apply accordingly.
- (4) 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 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.
- (4A) 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.
- (5) As soon as a wages 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.
- (6) An order under this section may make different provision for different cases and may amend or revoke previous orders under this section.

Status: This is the original version (as it was originally enacted).

- (7) A document purporting to be a copy of an order made by a wages 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.
- (8) An order under this section shall not prejudice any rights conferred on any worker by or under any other enactment.”

PART II

SECTION 12, AS SUBSTITUTED

Note: This Part of this Schedule reproduces section 12 with amendments substituting any terms and conditions of employment fixed by an order under section 11 (as well as remuneration so fixed) for those contained in a worker's contract of employment, making it an offence to fail to pay arrears of remuneration related to a period before the making of any such order and increasing the powers of a convicting court to order an employer to pay the remuneration or arrears.

“12 Effect and enforcement of orders under section 11.

- (1) If a contract between a worker to whom an order under section 11 of this Act 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
- (1A) 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 11 of this Act it shall have effect as if the corresponding terms and conditions were substituted for those fixed by the contract.
- (2) If an employer fails—
- (a) to pay a worker to whom an order under section 11 of this Act applies remuneration not less than the statutory minimum remuneration; or
 - (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.
- (3) Where proceedings are brought under the foregoing subsection 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 (3A) 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

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- (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.
- (3A) Evidence of any failure to pay any such remuneration or arrears may be given under subsection (3) of this section 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
- (4) 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
- (5) In the application of this section to Scotland—
- (a) in subsection (3), the words "or any other person charged as a person to whose act or default the offence was due " shall be omitted; and
 - (b) in subsection (3A), 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 ""

PART III

SCHEDULE 2, AS SUBSTITUTED

Note: This Part of this Schedule reproduces Schedule 2 with amendments as to the method and terms of appointment of members of wages councils. Constitution, Officers and Proceedings of Wages Councils and Co-ordinating Committees

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

- 1 (1) A wages council or, subject to paragraph 2 of this Schedule, 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) of this paragraph, the persons appointed under the foregoing sub-paragraph 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.

Status: This is the original version (as it was originally enacted).

- (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.
- 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 11 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 sub-paragraph (a) of paragraph 1 of this Schedule 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.”

PART IV

MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 For the words "a wages regulation order", wherever they occur, substitute the words " an order under section 11 of this Act ".
- 2 In section 4, after subsection (2) (power by order to vary the field of operation of a wages council) insert the following subsections :—
- “(2A) 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.
- (2B) 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.”
- 3 (1) In section 7 (central co-ordinating committees), for subsection (1) substitute the following subsection:—
- “(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 either of the two following subsections 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.”

Status: This is the original version (as it was originally enacted).

- (2) In section 7(2) after the words "wages council" in the first place where they occur, insert the words " or statutory joint industrial council ", and for the words " wages council" wherever else they occur substitute the word " council ".
- (3) In section 7(3) after the words "wages council" in the first place where they occur, insert the words " or statutory joint industrial council ", and for the words " wages council" wherever else they occur substitute the word " council ".
- (4) In section 7(5), in paragraph (a) for the words "wages councils " substitute the word " councils ".
- 4 (1) Section 13 (permits to infirm and incapacitated persons) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (1) for the words from "it may, if it thinks fit" to the end there shall be substituted the words " 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 the statutory minimum remuneration or, as the case may be, the terms and conditions fixed by the order shall be deemed to be observed. ".
- (3) In subsection (2) after the words "statutory minimum remuneration" insert the words " or dispensing with a term or condition specified in the permit " and after the words " specified remuneration" insert the words " or without compliance with any such term or condition ".
- 5 In section 14(2) (power to authorise benefits to be reckoned as wages) for the words "wages regulation proposals and wages regulation orders " substitute the words " orders under section 11 of this Act ".
- 6 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 16(2) (employers not to receive premiums)	£20	£100
Section 17(3) (failure to keep records or post or give notices)	£20	£100
Section 19(6) (obstruction, etc.)	£20	£100
Section 20 (false records and false information)	£100	£400

Status: This is the original version (as it was originally enacted).

- 7 In section 17(2) (notices to be displayed) for the words " wages regulation proposals or wages regulation order " substitute the words " proposals or orders under section 11 of this Act ".
- 8 In section 19(3) (power of officers to obtain information, etc.) for the words " outworkers " and " outworker ", wherever occurring, substitute respectively the words " homeworkers " and " home-worker ".
- 9 (1) In section 24 (definitions), before the definition of " home-worker " insert the following definition:—
“" employers' association " has the same meaning as in Part III of the Employment Protection Act 1975 ;”.
- (2) In the said section, for the definition of " organisation " substitute the following definition:—
“" organisation ", in relation to workers means a trade union and in relation to employers means an employers' association ;”.
- (3) In the said section, after the definition of " prescribed " insert the following definition:—
“" statutory joint industrial council " means a council established under section 90 of the Employment Protection Act 1975 ;”.
- (4) In the said section, for the definition of "trade union" substitute the following definition:—
“" trade union " has the same meaning as in the Trade Union and Labour Relations Act 1974”.
- (5) In the said section, for the provision defining " wages council" and "commission of inquiry", substitute the following definition:—
“" wages council " means a wages council established under this Act:”.
- (6) In the said section, for the definition of " worker " substitute the following definition:—
“" 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.”.
- 10 For paragraph 4 of Schedule 1 to the Wages Councils Act 1959 (cases where the Secretary of State may make an order establishing, abolishing or varying the field of operation of a wages council without further proceedings) there shall be substituted the following paragraph:—
“4 (1) If there is no objection which the Secretary of State is required by the foregoing paragraph to consider or if, after considering any such

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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 Advisory, Conciliation and Arbitration 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 the foregoing sub-paragraph without consulting the Service.”.

SCHEDULE 8

Section 90.

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

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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.
- 5 (1) A council may delegate any of its functions, other than the power to make orders under section 11 of the Wages Councils Act 1959, 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 11 of the Wages Councils Act 1959 (power to fix terms and conditions of employment);
 - any proposals published in relation to making of such an order, and any notice published and representations made with respect thereto ;
 - any permit issued under section 13 of that Act (permits to infirm and incapacitated persons);
 - any approval given under the proviso to section 16(1) of that Act (approval of payments by apprentices);

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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.

SCHEDULE 9

Section 97.

AMENDMENTS OF AGRICULTURAL WAGES ACT 1948

PART I

SECTION 3, AS SUBSTITUTED

“3 Power of Agricultural Wages Board to fix wages, holidays and other terms and conditions

- (1) Subject to and in accordance with the provisions of this section, the Board shall have power, for each county for which an agricultural wages committee is established under this Act, to make an order in accordance with the provisions of Schedule 4 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 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.

- (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.

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- (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 provision 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 holidays 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 4 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 receive remuneration calculated by reference to periods during the currency of their employment.”

Status: This is the original version (as it was originally enacted).

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 Agricultural Wages Act 1948 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.
- 2 (1) In section 5 (permits to incapacitated persons) after subsection (2) insert the following subsection:—
- “(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 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.”.
- (2) In section 5(3) (revocation of permit) after the words " subsection (1)" in both places where they occur insert the words " or (2A)
- (3) In section 5(4) (variation of condition of permit) at the end insert the words " 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. "
- (4) After section 5(4) insert the following subsection:—
- “(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.”.
- 3 (1) In section 11(1) (void agreements) at the end add 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

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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 add the words " or a term or condition of a contract of employment that is not inconsistent with a term or condition so fixed ".
- 4 (1) In section 12(3)(a) (inspection of records), at the end add the words " and records of terms and conditions of employment of such workers ".
- (2) In section 12(5) omit the words from " and in any such civil proceedings " onwards, and at the end of that subsection insert the following subsections:—
- “(5A) Where it appears to an officer so appointed that a term or condition of employment fixed by order of the Board is not being complied with by an employer, the officer (if he is authorised as aforesaid) 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.
- (5B) In any civil proceedings instituted by an officer by virtue of this section the court shall, if the officer is not a party to the proceedings, have the same power to make an order for the payment of costs by the officer as if he were a party to the proceedings”.
- (3) In section 12, for subsection (6) (saving for ordinary right to bring proceedings) substitute the following subsection:—
- “(6) Nothing in subsection (5) or (5A) of this section shall be taken to exclude the bringing otherwise than in accordance with either of those subsections of proceedings of any description mentioned in those subsections.”
- 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>Out 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.	£100 and an additional £5 for each day on which the offence is continued after conviction.
Section 6(6) (payment of unlawful premiums).	£20.	£100.
Section 12(7) (hindering officers (paragraph (a)), failure to produce documents or information (paragraph (b)), producing false documents (paragraph (c))	£20.	£100 in the case of an offence under paragraph (a) or lb) and £400 in the case of an offence under paragraph (c) or

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<i>Provision</i>	<i>Out maximum fine</i>	<i>New maximum fine</i>
6 and furnishing false information (paragraph (d)). In paragraph 6 of Schedule 4 (power to vary and revoke orders) omit the words from the beginning to " holidays		

SCHEDULE 10

Section 97.

AMENDMENTS OF AGRICULTURAL WAGES (SCOTLAND) ACT 1949

PART I

SECTION 3, AS SUBSTITUTED

- “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.
- (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

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- (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 holidays 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 in 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 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;”
- 2 (1) In section 5 (permits to infirm and incapacitated persons), after subsection (2) there shall be inserted the following subsection:—

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- “(2A) If on an 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 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. ".
- (4) In section 5(4A), after the words " subsection (1)" there shall be inserted the words " 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 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.”.

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. ".

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

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(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:—

“(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:—

“(5) 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”.

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>Out 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.	£100 and an additional £5 for each day on which the offence is continued after conviction.
Section 6(6) (payment of unlawful premiums).	£20	£100
Section 12(6) (hindering officers (paragraph (a)), failure to produce documents or information (paragraph (b)), producing false documents (paragraph (c)) and furnishing false information (paragraph (d))).	£20	£100 in the case of an offence under paragraph (a) or (b) and £400 in the case of an offence under paragraph (c) or (d).

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

Status: This is the original version (as it was originally enacted).

SCHEDULE 11

Section 98.

EXTENSION OF TERMS AND CONDITIONS

PART I

RECOGNISED TERMS AND CONDITIONS AND GENERAL LEVEL OF TERMS AND CONDITIONS

- 1 A claim may be reported to the Service, in accordance with and subject to the following provisions of this Part of this Schedule, that as respects any worker an employer is, in respect of any matter, observing terms and conditions of employment less favourable than the recognised terms and conditions or, where, or so far as, there are no recognised terms and conditions, the general level of terms and conditions.
- 2 In this Part of this Schedule—
- (a) the " recognised terms and conditions" means terms and conditions of workers in comparable employment in the trade or industry, or section of a trade or industry, in which the employer in question is engaged, either generally or in the district in which he is so engaged, which have been settled by an agreement or award, to which the parties are employers' associations and independent trade unions which represent (generally or in the district in question, as the case may be) a substantial proportion of the employers and of the workers in the trade, industry or section, being workers of the description to which the agreement or award relates; and
 - (b) the " general level of terms and conditions" means the general level of terms and conditions observed for comparable workers by employers—
 - (i) in the trade, industry or section in which the employer in question is engaged in the district in which he is so engaged ; and
 - (ii) whose circumstances are similar to those of the employer in question,
 and for the purposes of sub-paragraph (a) above the reference to terms and conditions, in a case where minimum terms and conditions have been settled as mentioned in that sub-paragraph, is a reference to those minimum terms and conditions.
- 3 No claim shall be reported under paragraph 1 above as respects workers whose remuneration or terms and conditions, or minimum remuneration or terms and conditions, is or are fixed (otherwise than by the employer, with or without the approval of any other person) in pursuance of any enactment other than—
- (a) the Agricultural Wages Act 1948 or the Agricultural Wages (Scotland) Act 1949 ;
 - (b) the Wages Councils Act 1959 ;
 - (c) sections 90 to 94 above ; or
 - (d) this Schedule;
- or in the case of whom provision is made by or under any such enactment for the settlement of questions as to remuneration or terms and conditions or minimum remuneration or terms and conditions.
- 4 A claim may be reported under paragraph 1 above, where, or so far as, the claim is founded upon recognised terms and conditions, by an employers' association or an independent trade union being one of the parties mentioned in paragraph 2(a) above.

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- 5 (1) A claim may be reported under paragraph 1 above, where, or so far as, the claim is founded upon the general level of terms and conditions, by—
- (a) an employers' association having members engaged in the trade, industry or section, in the district to which the claim relates ; or
 - (b) subject to sub-paragraph (2) below, a trade union of which any worker concerned is a member.
- (2) Where any such worker is of a description in respect of which an employer recognises one or more independent trade unions, such a claim may be reported by a trade union only if it is that recognised union or, as the case may be, one of those recognised unions.
- 6 A claim under paragraph 1 above shall be in writing and shall contain such particulars as the Service may require.
- 7 When a claim is reported to the Service under paragraph 1 above the Service shall take any steps which seem to it expedient to settle the claim or to secure the use of appropriate machinery to settle the claim and shall if the claim is not otherwise settled refer it to the Committee.
- 8 The Committee shall hear and determine the claim and it shall be for—
- (a) the party making the claim to show that there are recognised terms and conditions and what those terms and conditions are, or, as the case may be, what the general level of terms and conditions is ; and
 - (b) the employer to satisfy the Committee that he is observing terms and conditions of employment not less favourable than the recognised terms and conditions or, as the case may be, the general level of terms and conditions.
- 9 In ascertaining whether, in respect of any matter which is the subject of a claim under paragraph 1 above, the employer is observing terms and conditions less favourable than the recognised terms and conditions, or as the case may be, the general level of terms and conditions regard shall be had to the whole of the terms and conditions observed by the employer as respects the worker to whom the claim relates.
- 10 If the Committee finds the claim wholly or partly well-founded it shall make an award that the employer shall observe the recognised terms and conditions or, as the case may be, terms and conditions conforming to the general level of terms and conditions and shall identify or specify—
- (a) the recognised terms and conditions or, as the case may be, terms and conditions conforming to the general level of terms and conditions ;
 - (b) the description or descriptions of employees in respect of which they are to be observed ; and
 - (c) the date from which they are to be observed, being a date not earlier than the date on which the employer was first informed of the claim giving rise to the award by the union or association which reported the claim to the Service.
- 11 Any terms and conditions which by an award under paragraph 10 above the employer is required to observe in respect of employees of his shall have effect as part of the contract of employment of any such employee as from the date specified in the award, except in so far as they are superseded or varied—
- (a) by a subsequent award under that paragraph ;

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- (b) by a collective agreement between the employer and the trade union for the time being representing that employee ; or
- (c) by express or implied agreement between the employee and the employer so far as that agreement effects an improvement in any terms and conditions having effect by virtue of the award.

12 Where—

- (a) by virtue of any enactment, other than one contained in this Part of this Schedule, providing for minimum remuneration or terms and conditions a contract of employment is to have effect as modified by an award, order or other instrument under that enactment, and
- (b) by virtue of an award under paragraph 10 above any terms and conditions are to have effect as part of that contract,

that contract shall have effect in accordance with that award, order or other instrument or in accordance with the award under paragraph 10 above, whichever is the more favourable, in respect of any terms and conditions of that contract, to the employee.

13 If in the course of determining a claim under this Schedule after the commencement of section 3 of the Equal Pay Act 1970, it appears to the Committee that a collective agreement or pay structure within the meaning of that section contains any provision applying specifically to men only or to women only so that it would, had it been referred to the Committee by the Secretary of State under that section, have required amendment in accordance with subsection (4) of that section so as to remove that discrimination between men and women—

- (a) that provision shall not be regarded as part of the recognised terms and conditions or, as the case may be, shall not be taken into account in assessing the general level of terms and conditions; and
- (b) the Committee shall report its opinion to the Secretary of State and, in the case of a collective agreement, to the parties to that agreement or, in the case of a pay structure, to the employer concerned.

14 For the purposes of this Schedule the carrying on of the activities of public or local authorities shall be treated as the carrying on of a trade or industry.

PART II

COLLECTIVELY NEGOTIATED TERMS AND CONDITIONS IN CERTAIN INDUSTRIES

15 A claim may be reported to the Service under this paragraph by an independent trade union as respects any worker who is a member of that trade union and who falls within the field of operation of a wages council, a statutory joint industrial council, the Agricultural Wages Board or the Scottish Agricultural Wages Board—

- (a) that the union is a party to one or more collective agreements and that those agreements cover a significant number of establishments within the field of operation of that council or Board either generally or in the district in which the worker is employed ; and
- (b) that in those establishments the circumstances of the employer are similar to those of the employer of the worker in question; and
- (c) that the employer is paying him less than the lowest current , rate of remuneration (disregarding any rate agreed to more than 12 months before

- the date on which the claim was reported) payable to workers of his description under any of those agreements.
- 16 The provisions of paragraphs 7, 8 and 10 to 14 above shall apply to a claim under paragraph 15 above—
- (a) as if for any reference to the recognised terms and conditions there were substituted a reference to the rate of remuneration referred to in paragraph 15(c) above ;
 - (b) as if references to the general level of terms and conditions were omitted; and
 - (c) as if the reference in paragraph 12(a) to Part I of this Schedule were a reference to Part II of this Schedule and so much of Part I as is thereby applied.

SCHEDULE 12

Section 110.

DEATH OF EMPLOYEE OR EMPLOYER

PART I

GENERAL

Introductory

- 1 In this Schedule " the relevant provisions" means the provisions of this Act (including this Schedule) conferring rights on employees, or connected therewith, and so much of the 1974 Act as relates to unfair dismissal.

Institution or continuance of tribunal proceedings

- 2 Where an employee or employer has died tribunal proceedings arising under any of the relevant provisions may be instituted or continued by a personal representative of the deceased employee or, as the case may be, defended by a personal representative of the deceased employer.
- 3 (1) If there is no personal representative of a deceased employee, tribunal proceedings arising under any of the relevant provisions (or proceedings to enforce a tribunal award made in any such proceedings) may be instituted or continued on behalf of the estate of the deceased employee by such other person as the industrial tribunal may appoint being either—
- (a) a person authorised by the employee to act in connection with the proceedings before the employee's death ; or
 - (b) the widower, widow, child, father, mother, brother or sister of the deceased employee,
- and references in this Schedule to a personal representative shall be construed as including such a person.
- (2) In such a case any award made by the industrial tribunal shall be in such terms and shall be enforceable in such manner as may be provided by regulations made by the Secretary of State.

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- 4 (1) Subject to any specific provision of this Schedule to the contrary, in relation to an employee or employer who has died—
- (a) any reference in the relevant provisions to the doing of anything by or in relation to an employee or employer shall be construed as including a reference to the doing of that thing by or in relation to any personal representative of the deceased employee or employer ; and
 - (b) any reference in the said provisions to a thing required or authorised to be done by or in relation to an employee or employer shall be construed as including a reference to any thing which, in accordance with any such provision as modified by this Schedule (including sub-paragraph (a) above), is required or authorised to be done by or in relation to any personal representative of the deceased employee or employer.
- (2) Nothing in this paragraph shall prevent references in the relevant provisions to a successor of an employer from including a personal representative of a deceased employer.

Rights and liabilities accruing after death

- 5 Any right arising under any of the relevant provisions as modified by this Schedule shall, if it had not accrued before the death of the employee in question, nevertheless devolve as if it had so accrued.
- 6 Where by virtue of any of the relevant provisions as modified by this Schedule a personal representative of a deceased employer is liable to pay any amount and that liability had not accrued before the death of the employer, it shall be treated for all purposes as if it were a liability of the deceased employer which had accrued immediately before the death.

Death during protected period

- 7 Where an industrial tribunal makes a protective award under section 101 above and an employee of a description to which the award relates dies during the protected period, the award shall be treated in his case as if it specified a protected period of such length as to end on the date of his death.

PART II

UNFAIR DISMISSAL

Introductory

- 8 In this Part of this Schedule " the unfair dismissal provisions " means so much of this Act (including this Schedule) and -the 1974 Act as relates to unfair dismissal.

Death during notice period

- 9 Where an employer has given notice to an employee to terminate his contract of employment and before that termination the employee or the employer dies, the unfair dismissal provisions shall apply as if the contract had been duly terminated by the employer by notice expiring on the date of the death.

Status: This is the original version (as it was originally enacted).

- 10 Where the employee's contract of employment has been terminated by the employer and by virtue of paragraph 5(6) of Schedule 1 to the 1974 Act a date later than the effective date of termination as defined by sub-paragraph (5) of that paragraph is to be treated as the effective date of termination for the purposes of certain of the unfair dismissal provisions, and before that later date the employee or the employer dies, the said sub-paragraph (b) shall have effect as if the notice referred to in that sub-paragraph as required to be given by the employer would have expired on the death.

Remedies for unfair dismissal

- 11 Where an employee has died, then, unless an order for reinstatement or re-engagement has already been made, the unfair dismissal provisions relating to reinstatement and re-engagement shall not apply ; and accordingly if the industrial tribunal finds that the grounds of the complaint are well-founded the case shall be treated as falling within section 72(5) above as a case in which no order is made under section 71 above.
- 12 If an order for reinstatement or re-engagement has been made and the employee dies before the order is complied with—
- (a) if the employer has before the death refused to reinstate or re-engage the employee in accordance with the order, section 72(2) and (3) above shall apply and an award shall be made under section 72(2)(b) above unless the employer satisfies the tribunal that it was not practicable at the time of the refusal to comply with the order;
 - (b) if there has been no such refusal, section 72(1) above shall apply if the employer fails to comply with any ancillary terms of the order which remain capable of fulfilment after the employee's death as it would apply to such a failure to comply fully with the terms of an order where the employee had been reinstated or re-engaged.

SCHEDULE 13

Section 114.

AMENDMENTS OF THE EMPLOYMENT AGENCIES ACT 1973

- 1 In sections 1 and 2, for the words " licensing authority wherever they occur, substitute the words " Secretary of State ".
- 2 In section 1(2)(b) for the words from " time for appealing " to the end, substitute the words " refusal is notified to him in accordance with section 3(10) of this Act ".
- 3 (1) After section 2(3) insert the following subsection—
- “(3A) A licence may be revoked by the Secretary of State on any of the grounds specified in subsection (3) of this section.”
- (2) Section 2(4) is hereby repealed.
- (3) In section 2(5) omit the words " under the subsequent provisions of this Act " and for the words from " time for appealing " to the end, substitute the words " refusal is notified to him in accordance with section 3(10) of this Act ".
- 4 For sections 3 and 4, substitute the following section—

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“3 Right to make representations.

- (1) Where the Secretary of State proposes to refuse or to revoke a licence he shall notify the applicant for or the holder of the licence of—
 - (a) the proposal and the reasons for it; and
 - (b) his right under this section to make written representations relating to that proposal and the time within which that right may be exercised.
- (2) A person who receives a notification of a proposal such as is mentioned in subsection (1) of this section may make written, representations about it to the Secretary of State.
- (3) Written representations in relation to a proposal to refuse or revoke a licence must be received by the Secretary of State within 21 days of the receipt of the notification of that proposal.
- (4) If the Secretary of State receives such representations within the time specified in subsection (3) of this section, he shall consider them and—
 - (a) if he decides not to proceed with the proposal, and accordingly decides to grant or not to revoke the licence, shall notify the applicant or holder of his decision ;
 - (b) in any other case, shall appoint a person to consider the representations on his behalf, and shall notify the applicant or holder of that appointment and of the name of the appointed person, and shall require the applicant or holder to state within 14 days whether he wishes to make oral representations to the appointed person.
- (5) If a person who receives such a notification as is mentioned in subsection (4) (b) of this section expresses, within the time mentioned in that paragraph, a wish to make oral representations to the appointed person the Secretary of State shall give the former written notice of the place, date and time of the hearing.
- (6) A notice under subsection (5) of this section shall not specify a date for the hearing earlier than 21 days from the date of the notice, unless the person who wishes to make the representations has agreed to an earlier hearing.
- (7) The appointed person shall, in accordance with the notice given under subsection (5) of this section, afford to the person who wishes to make oral representations an opportunity to do so, either in person or by any person authorised by him in that behalf.
- (8) The appointed person shall consider the written representations referred to in subsection (4) of this section and any oral representations made under subsection (7) of this section, and shall make a report to the Secretary of State giving his findings of fact and his recommendations.
- (9) Where representations relating to a proposal have been made under this section, the Secretary of State may make a final decision relating to that proposal only after receiving and considering the report on it of the appointed person.

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(10) The Secretary of State shall notify the applicant, or holder, of his decision and the reasons for it and shall send him a copy of the appointed person's report.”.

5 Section 8 is hereby repealed.

6 (1) In section 9(1) for the words "of a licensing authority duly authorised by them in that behalf " substitute the words " duly authorised in that behalf by the Secretary of State ".

(2) In section 9(1)(c) for the words "licensing authority" and " their " substitute respectively the words " Secretary of State " and " his ".

(3) In section 9(4)(a) sub-paragraphs (ii) and (iii) are hereby repealed, sub-paragraphs (iv) and (v) shall be renumbered as, respectively, sub-paragraphs (ii) and (iv), and after the renumbered sub-paragraph (ii) there shall be inserted the following sub-paragraph—

“(iii) by the Secretary of State, or an officer or servant appointed by, or persons exercising functions on behalf of, the Secretary of State to the person carrying on or proposing to carry on the employment agency or employment business concerned, to any person in his employment or, in the case of information relating to a person availing himself of the services of such an agency or business, to that person; or”,

and in sub-paragraph (iv) (as renumbered) for the words from " on an appeal" to the end, substitute the words " under section 3(7) of this Act

7 In section 13(1), the definition of "licensing authority" is hereby repealed.

SCHEDULE 14

Section 115.

AMENDMENTS OF THE EMPLOYMENT AND TRAINING ACT 1973

1 For section 1(7) substitute the following subsections—

“(7) The functions of the Commission and of the Agencies and of their officers and servants shall be performed on behalf of the Crown.

(8) For the purposes of any civil proceedings arising out of those functions, the Crown Proceedings Act 1947 and the Crown Suits (Scotland) Act 1857 shall apply to the Commission and the Agencies as if they were government departments within the meaning of the said Act of 1947 or, as the case may be, public departments within the meaning of the said Act of 1857.”

2 (1) In section 5(1), for the words from " providing " onwards substitute—

“(a) providing temporary employment for persons in Great Britain who are without employment;

(b) securing a temporary continuation of employment for persons in Great Britain who in his opinion would otherwise be likely to be dismissed by reason of redundancy ; and

(c) obtaining employment for any description of persons in Great Britain who in his opinion would, because of their special circumstances and a high or increasing level of unemployment in

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Great Britain, otherwise have or be likely to have difficulty in obtaining employment;

and any such arrangements may include arrangements for the making by the Secretary of State of payments by way of grant or loan to employers or other persons in order to facilitate the carrying out of the arrangements.”.

- (2) Paragraphs (b) and (c) of the said section 5(1) shall cease to have effect on the expiration of the period of eighteen months beginning with the commencement of this paragraph unless continued in force by an order under this paragraph.
- (3) The Secretary of State may by order—
- (a) provide that the said paragraph (b) or the said paragraph (c) or both paragraphs, shall continue in force for a period not exceeding twelve months from the expiration of the period mentioned in sub-paragraph (2) above; and
 - (b) from time to time extend or further extend the period for which either or both of those paragraphs is or are to continue in force by a further period not exceeding twelve months.
- (4) Any arrangements made before the expiration of the said paragraph (b) or (c) shall continue in force after its expiration and may be enforced and otherwise implemented accordingly.
- (5) No order shall be made under this paragraph unless a draft of the order is laid before and approved by a resolution of each House of Parliament.
- 3 After section 13(1) insert the following subsection:—
- “(1A) Any reference in this Act to redundancy shall be construed as a reference to the existence of one or other of the facts specified in section 1(2)(a) and (b) of the Redundancy Payments Act 1965.”.
- 4 In Schedule 1, after paragraph 10 insert the following paragraph:—
- “10A The Commission shall pay to the Minister for the Civil Service, at such times in each accounting year as may be determined by that Minister subject to any directions of the Treasury, sums of such amounts as he may so determine for the purposes of this paragraph as being equivalent to the increase during that year of such liabilities of his as are attributable to the provision of pensions, allowances or gratuities to or in respect of persons who are or have been in the service of the Commission in so far as that increase results from the service of those persons during that accounting year and to the expense to be incurred in administering those pensions, allowances or gratuities.”.
- 5 In paragraph 13 of Schedule 1 for the words " or employee " substitute the words " , officer or servant ".
- 6 The following provisions and passages are hereby repealed:—
- Section 7.
- In section 13(1), in the definition of " employee" the words " , except in Schedule 1, ", and in the definition of " employ-ployment " the words " , except in section 7 and Schedule 1, ".
- Section 13(5).
- In section 15(3), the references to paragraphs 5 and 13 of Schedule 3.

In Schedule 1, in paragraph 10(1) the words from " and any " to the end, paragraphs 10(2), 11, 12 and 16.

In Schedule 3, paragraphs 5 and 13.

SCHEDULE 15

Section 116.

AMENDMENTS OF THE HEALTH AND SAFETY AT WORK ETC. ACT 1974

- 1 In section 1(2) omit the words " and agricultural health and safety regulations ".
- 2 In section 2, omit subsection (5) and in subsection (7) for the words " subsections (4) and (5) " substitute the words " subsection (4) ".
- 3 After section 10(7) insert the following subsection:—

“(8) For the purposes of any civil proceedings arising out of those functions, the Crown Proceedings Act 1947 and the Crown Suits (Scotland) Act 1857 shall apply to the Commission and the Executive as if they were government departments within the meaning of the said Act of 1947 or, as the case may be, public departments within the meaning of the said Act of 1857.”.
- 4 In section 11, in subsection (1) omit the words " except as regards matters relating exclusively to agricultural operations " , and in subsection (2) omit the words " except as aforesaid ".
- 5 In section 14(2), omit the words from " but shall not do so " to " agricultural operations ".
- 6 In section 15, for subsection (1) substitute—

“(1) Subject to the provisions of section 50, the Secretary of State, the Minister of Agriculture, Fisheries and Food or the Secretary of State and that Minister acting jointly shall have power to make regulations under this section for any of the general purposes of this Part (and regulations so made are in this Part referred to as " health and safety regulations).”.
- 7 In section 16(1), omit the words " and except as regards matters relating exclusively to agricultural operations ".
- 8 In section 18, in subsection (3) omit the words " or agricultural health and safety regulations ", and in subsection (5) omit the words " the appropriate Agriculture Minister ".
- 9 In section 28, after subsection (8) insert the following subsection—

“(9) Notwithstanding anything in subsection (7) above, a person who has obtained such information as is referred to in that subsection may furnish to a person who appears to him to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in that subsection.”.
- 10 Sections 29, 30, 31 and 32 are hereby repealed.
- 11 In section 33, in subsection (1)(c) omit the words " or agricultural health and safety regulations ", and in subsection (4)(a) omit the words " or the appropriate Agriculture Minister ".

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- 12 In section 43, in subsection (3) omit the words " the Minister of Agriculture, Fisheries and Food " and for subsections (6) and (7) substitute—
- “(6) The power to make regulations under this section shall be exercisable by the Secretary of State, the Minister of Agriculture, Fisheries and Food or the Secretary of State and that Minister acting jointly.”.
- 13 In section 44, in subsection (1) omit the words " agricultural licences and ", and in subsection (7)(a) for the words " an agricultural licence or nuclear site licence " substitute the words " a nuclear site licence ".
- 14 In section 47, in subsection (2) omit the words " or agricultural health and safety regulations ", in subsection (3) omit the words " or, as the case may be, agricultural health and safety regulations " and in subsection (5) omit the words " or, as the case may be, agricultural health and safety regulations ".
- 15 (1) In section 49, in subsection (1) for the words "The appropriate Minister may by regulations amend " substitute the words " Regulations made under this subsection may amend ", in subsection (2) for the words " appropriate Minister" substitute the words " authority making the regulations ", in subsection (3) omit the words " by the appropriate Minister " and for the words " if the appropriate Minister" substitute the words " if the authority making the regulations ".
- (2) For subsection (4) of that section substitute—
- “(4) The power to make regulations under this section shall be exercisable by the Secretary of State, the Minister of Agriculture, Fisheries and Food or the Secretary of State and that Minister acting jointly.”.
- 16 (1) In section 50, for subsection (1) substitute—
- “(1) Where any power to make regulations under any of the relevant statutory provisions is exercisable by the Secretary of State, the Minister of Agriculture, Fisheries and Food or both of them acting jointly that power may be exercised either so as to give effect (with or without modifications) to proposals submitted by the Commission under section 11(2)(d) or independently of any such proposals ; but the authority who is to exercise the power shall not exercise it independently of proposals from the Commission unless he has consulted the Commission and such other bodies as appear to him to be appropriate.”.
- (2) In subsection (2) of that section, for the words from " Secretary of State " to " preceding subsection " substitute " authority who is to exercise any such power as is mentioned in subsection (1) above proposes to exercise that power ".
- (3) In subsection (3), for the words " to the Secretary of State " substitute the words " under section 11(2)(d) ".
- (4) Subsections (4) and (5) are hereby repealed.
- 17 In section 52, for subsections (3) and (4) substitute—
- “(3) The power to make regulations under subsection (2) above shall be exercisable by the Secretary of State, the Minister of Agriculture, Fisheries and Food or the Secretary of State and that Minister acting jointly.”.
- 18 (1) In section 53, in subsection (1) omit the definitions of " agriculture ", "the Agriculture Ministers", "agricultural health and safety regulations ", " agricultural licence ", "

agricultural operation ", "the appropriate Agriculture Minister", "forestry", "livestock " and " the relevant agricultural purposes " and in the definition of " the relevant statutory provisions " omit the words " and agricultural health and safety regulations ".

(2) Subsections (2) to (6) of that section are hereby repealed.

19 In section 80, for subsections (4) to (6) substitute—

“(4) The power to make regulations under subsection (1) above shall be exercisable by the Secretary of State, the Minister of Agriculture, Fisheries and Food or the Secretary of State and that Minister acting jointly ; but the authority who is to exercise the power shall, before exercising it, consult such bodies as appear to him to be appropriate.

(5) In this section ' the relevant statutory provisions' has the same meaning as in Part I.”.

20 In section 84(1)(a), omit the words " or 30 ".

21 Schedule 4 is hereby repealed.

SCHEDULE 16

Section 125.

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

REDUNDANCY PAYMENTS ACT 1965

1 In section 1(1) (general right to redundancy payments) at end add " and Schedule 4 to the Employment Protection Act 1975 ".

2 For subsections (3) to (5) of section 2 (disentitlement to redundancy payment where employee unreasonably refuses offer of renewal of contract or re-engagement) substitute the following subsections:—

“(3) If an employer makes an employee an offer (whether in writing or not) before the ending of his employment under the previous contract to renew his contract of employment, or to re-engage him under a new contract of employment, so that the renewal or re-engagement would take effect either immediately on the ending of his employment under the previous contract or after an interval of not more than four weeks thereafter the provisions of subsections (5) and (6) of this section shall have effect.

(4) For the purposes of the application of the last preceding subsection to a contract under which the employment ends on a Friday, Saturday or Sunday—

(a) the renewal or re-engagement shall be treated as taking effect immediately on the ending of the employment under the previous contract if it takes effect on or before the next Monday after that Friday, Saturday or Sunday; and

(b) the interval of four weeks shall be calculated as if the employment had ended on that Monday.

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- (5) If an employer makes an employee such an offer as is referred to in subsection (3) of this section and either—
- (a) the provisions of the contract as renewed, or of the new contract, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would not differ from the corresponding provisions of the previous contract; or
 - (b) the first mentioned provisions would differ (wholly or in part) from those corresponding provisions, but the offer constitutes an offer of suitable employment in relation to the employee ;
- and in either case the employee unreasonably refuses that offer, he shall not be entitled to a redundancy payment by reason of his dismissal.
- (6) If an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment, in pursuance of such an offer as is referred to in subsection (3) of this section, and the provisions of the contract as renewed, or of the new contract, as to the capacity and place in which he is employed, and as to the other terms and conditions of his employment, differ (wholly or in part) from the corresponding provisions of the previous contract but the employment is suitable in relation to the employee, and during the trial period referred to in section 3 of this Act the employee unreasonably terminates the contract, or unreasonably gives notice to terminate it and the contract is thereafter, in consequence, terminated, he shall not be entitled to a redundancy payment by reason of his dismissal from employment under the previous contract.”.

3 For section 3 (dismissal by employer) substitute the following section—

“3 Dismissal by employer.

- (1) In this Part of this Act, " dismiss" and " dismissal" shall be construed in accordance with the provisions of this section and the next following section.
- (2) Subject to the following provisions of this section and to the next following section, an employee shall be treated as dismissed by his employer, if, but only if—
 - (a) the contract under which he is employed by the employer is terminated by the employer, whether it is so terminated by notice or without notice, or
 - (b) where under that contract he is employed for a fixed term, that term expires without being renewed under the same contract, or
 - (c) the employee terminates that contract, with or without notice, in circumstances (not falling within section 10(4) of this Act) such that he is entitled to terminate it without notice by reason of the employer's conduct.
- (3) If an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment in pursuance of an offer (whether in writing or not) made by his employer before the ending of his employment under the previous contract, and the renewal or re-engagement takes effect either immediately on the ending of that employment or after an interval of not more than four weeks thereafter, then, subject to subsections (5) to (8) of this section, the employee shall not be regarded as having been dismissed by

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his employer by reason of the ending of his employment under the previous contract.

- (4) For the purposes of the application of the last preceding subsection to a contract under which the employment ends on a Friday, Saturday or Sunday—
- (a) the renewal or re-engagement shall be treated as taking effect immediately on the ending of the employment if it takes effect on or before the Monday after that Friday, Saturday or Sunday, and
 - (b) the interval of four weeks referred to in that subsection shall be calculated as if the employment had ended on that Monday.
- (5) If in a case to which subsection (3) of this section applies, the provisions of the contract as renewed, or the new contract, as to the capacity and place in which the employee is employed, and as to the other terms and conditions of his employment, differ (wholly or in part) from the corresponding provisions of the previous contract, there shall be a trial period in relation to the contract as renewed, or the new contract (whether or not there has been a previous trial period under this section).
- (6) The trial period shall begin with the ending of the employee's employment under the previous contract and end with the expiration of the period of four weeks beginning with the date on which the employee starts work under the contract as renewed, or the new contract, or such longer period as may be agreed in accordance with the next following subsection for the purpose of retraining the employee for employment under that contract.
- (7) Any such agreement shall—
- (a) be made between the employer and the employee or his representative before the employee starts work under the contract as renewed or, as the case may be, the new contract;
 - (b) be in writing ;
 - (c) specify the date of the end of the trial period; and
 - (d) specify the terms and conditions of employment which will apply in the employee's case after the end of that period.
- (8) If during the trial period—
- (a) the employee, for whatever reason, terminates the contract, or gives notice to terminate it and the contract is thereafter, in consequence, terminated ; or
 - (b) the employer, for a reason connected with or arising out of the change to the renewed, or new, employment, terminates the contract, or gives notice to terminate it and the contract is thereafter, in consequence, terminated,

then, unless the employee's contract of employment is again renewed, or he is again re-engaged under a new contract of employment, in circumstances such that subsection (3) above again applies, he shall be treated as having been dismissed on the date on which his employment under the previous contract or, if there has been more than one trial period, the original contract ended for the reason for which he was then dismissed or would have been dismissed had the offer (or original offer) of renewed, or new, employment not been made, or, as the case may be, for the reason which resulted in that offer being made.

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- (9) Subject to the next following subsection and to the next following section, in this Part of this Act, "the relevant date", in relation to the dismissal of an employee—
- (a) where his contract of employment is terminated by notice, whether given by his employer or by the employee, means the date on which that notice expires ;
 - (b) where his contract of employment is terminated without notice, means the date on which the termination takes effect;
 - (c) where he is employed under a contract for a fixed term and that term expires as mentioned in subsection (2)(b) of this section, means the date on which that term expires ; and
 - (d) where he is treated, by virtue of subsection (8) of this section, as having been dismissed on the termination, of his employment under a previous contract, means—
 - (i) for the purposes of section 21 of this Act, the date which is the relevant date as defined by paragraph (a), (b) or (c) of this subsection in relation to the renewed, or new, contract, or, where there has been more than one trial period, the last such contract; and
 - (ii) for any other purpose, the date which is the relevant date as defined by paragraph (a), (b) or (c) of this subsection in relation to the previous contract, or, where there has been more than one trial period, the original contract.
- (10) Where the notice required to be given by an employer to terminate a contract of employment by section 1(1) of the Contracts of Employment Act 1972 (minimum period of notice) would, if duly given when notice of termination was given by the employer, or (where no notice was given) when the contract of employment was terminated by the employer, expire on a date later than the relevant date as defined by the last preceding subsection, then for the purposes of section 8(1) of, and paragraphs 1(1) and 5(7) of Schedule 1 to, this Act, that later date shall be treated as the relevant date in relation to the dismissal.”.
- 4 In section 5(2) omit the words " (calculated in accordance with Schedule 2 to this Act) " and after that subsection insert the following subsection—
- “(2A) For the purposes of Part II of Schedule 4 to the Employment Protection Act 1975 as it applies for the calculation of a week's pay for the purposes of the last preceding subsection, the calculation date is the day immediately preceding the first of the four or, as the case may be, the six weeks referred to in section 6(1) of this Act.”.
- 5 (1) In section 8(1) for the words " one hundred and four weeks " substitute the words " two years ".
- (2) In section 8(3) for the words " 3(2)" substitute the words " 3(3) ".
- (3) After section 8(3) insert the following subsection—
- “(3A) Where by virtue of section 3(10) of this Act a date is to be treated as the relevant date for the purposes of subsection (1) of this section which is later than the relevant date as defined by subsection (9) of that section, then in determining for the purposes of section 1(1) of this Act whether

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the employee has been continuously employed for the requisite period, the period of the interval between those two dates shall count as a period of employment notwithstanding that it does not count under that Schedule.”.

- (4) In section 8(4) for the words " sections 17 and 24 " substitute the words ' sections 17, 24 and 24A ".

6 For section 12 there shall be substituted the following section—

“12 Claims as to extension of terms and conditions.

(1) A claim under paragraph 1 of Schedule 11 to the Employment Protection Act 1975 (claims as to recognised terms and conditions and general level of terms and conditions) may be reported to the Advisory, Conciliation and Arbitration Service in accordance with that Schedule, and may be referred by the Service to the Central Arbitration Committee, and the Committee may make an award under that Schedule, notwithstanding that the terms and conditions which it is claimed that the employer is not observing consist of or include terms and conditions as to payments to be made to employees in the circumstances specified in paragraph (a) or paragraph (b) of section 1(1) of this Act, or in similar circumstances, and that provision for redundancy payments is made by this Act.

(2) Where a claim which is reported to the Service under the said paragraph 1 is founded upon recognised terms and conditions and relates to an agreement in respect of which an order under section 11 of this Act is for the time being in force, and the Committee makes an award in pursuance of that claim, section 11(3) of this Act shall have effect in relation to all persons in respect of whom the employer is required by that award to observe the recognised terms and conditions, whether they are persons to whom section 11(3) of this Act would apply apart from this subsection or not.”.

- 7 (1) In section 13(2) for the words " section 3(2)" substitute the words " subsections (3) to (10) of section 3 ".

(2) In section 13(3) omit the words from " but the employee " to the end of the subsection and insert the words " subsections (3) to (6) of section 2 of this Act shall have effect, subject to the next following subsection, in relation to that offer as they would have had effect in relation to the like offer made by the previous owner. ".

(3) In section 13(4) for the words "subsection (3) or subsection (4)" substitute the words " subsections (3) to (6) " and at the end of paragraph (b) insert the words " or, as the case may be, whether the employee acted reasonably in terminating the renewed, or new, employment during the trial period referred to in section 3 of this Act ".

8 For section 17(3) to (6) (computation of period of employment as respects employment wholly or partly abroad) substitute the following subsections—

“(3) Subject to the following provisions of this section, in computing, in relation to an employee, the period specified in section 8(1) of this Act, or the period specified in paragraph 1 of Schedule 1 to this Act, a week of employment before 6th April 1975 shall not count if—

- (a) the employee was employed outside Great Britain during the whole or part of that week, and
- (b) no employer's contribution in respect of him was paid in respect of the corresponding contribution week,

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unless an employer's contribution in respect of him was payable (though not in fact paid) in respect of the corresponding contribution week.

- (4) For the purposes of the application of the last preceding subsection to a week of employment where the corresponding contribution week began before the 5th July 1948, an employer's contribution shall be treated as payable as mentioned in that subsection if such a contribution would have been so payable if the statutory provisions relating to national insurance which were in force on 5th July 1948 had been in force in that contribution week.
- (4A) Subject to the following provisions of this section, in computing, in relation to an employee the period specified in section 8(1) of this Act or the period specified in paragraph 1 of Schedule 1 to this Act, a week of employment after the 6th April 1975 and before the day appointed for the coming into force of paragraph 8 of Part I of Schedule 16 to the Employment Protection Act 1975 shall not count if—
- (a) the employee was employed outside Great Britain during the whole or part of that week ; and
 - (b) he was not during that week an employed earner for the purposes of the Social Security Act 1975.
- (4B) Subject to the following provisions of this section, in computing in relation to an employee, either of those periods, a week of employment after the day so appointed shall not count if—
- (a) the employee was employed outside Great Britain during the whole or part of that week ; and
 - (b) he was not during that week an employed earner for the purposes of the Social Security Act 1975 in respect of whom a secondary Class 1 contribution was payable under that Act (whether or not such a contribution was in fact paid).
- (5) Where by virtue of subsection (3), (4A) or (4B) of this section a week of employment does not count in computing such a period as is mentioned in those subsections, the continuity of that period shall not be broken by reason only that that week of employment does not count in computing that period.
- (6) Any question arising under this section—
- (a) whether an employer's contribution was paid, or was or would have been payable, as mentioned in subsection (3) or (4) of this section ; or
 - (b) whether a person was an employed earner for the purposes of the Social Security Act 1975 and if so whether a secondary Class 1 contribution was payable in respect of him under that Act,
- shall be determined by the Secretary of State; and any legislation (including regulations) as to the determination of questions which under that Act the Secretary of State is empowered to determine (including provisions as to the reference of questions for decision, or as to appeals, to the High Court or the Court of Session) shall apply to the determination of any question by the Secretary of State under this section.”.

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“or

(d) a complaint relating to his dismissal has been presented by the employee under paragraph 17 of Schedule 1 to the Trade Union and Labour Relations Act 1974.

(2) An employee shall not by virtue of the preceding subsection lose his right to a redundancy payment if, during the period of six months immediately following the period mentioned in that subsection, the employee—

(a) makes such a claim as is referred to in paragraph (b) of that subsection,

(b) refers to a tribunal such a question as is referred to in paragraph (c) of that subsection, or

(c) makes such a complaint as is referred to in paragraph (d) of that subsection,

and it appears to the tribunal to be just and equitable that the employee should receive a redundancy payment having regard to the reason shown by the employee for his failure to take any such step as is referred to in paragraph (a), (b) or (c) of this subsection within the period mentioned in the preceding subsection, and to all the other relevant circumstances.”

10 (1) In section 22(1) at the end insert the following words " and in particular the provisions of section 3 of this Act shall apply accordingly. "

(2) For section 22(2) substitute the following subsection—

“(2) Where the preceding subsection applies, and the employee's contract of employment is not renewed, and he is not re-engaged under a new contract of employment, so as to be treated, by virtue of section 3(3) of this Act, as not having been dismissed, he shall, without prejudice to section 3(8) of this Act, be taken for the purposes of this Act to be dismissed by reason of redundancy if the circumstances in which his contract is not so renewed and he is not so re-engaged are wholly or mainly attributable to one or other of the facts specified in paragraphs (a) and (b) of section 1(2) of this Act.”

(3) For section 22(4) substitute the following subsection—

“(4) In this section any reference to section 3(3) of this Act includes a reference to the said section 3(3) as applied by section 13(2) of this Act or as so applied and, where appropriate, modified by section 13A(2) of this Act, and where section 3(3) applies with modifications in accordance with the said section 13A(2) the references in subsection (2) of this section to renewal of or re-engagement under a contract of employment shall be construed as including references to renewal of or re-engagement in employment otherwise than under a contract of employment.”

11 In section 25(2) for the words "3(4)" substitute the words " section 3(9) and (10) ".

12 (1) In section 30(1)(c) for the words "Industrial Court" substitute the words " Central Arbitration Committee ".

(2) After section 30(2), insert the following subsection:—

“(2A) The Secretary of State may if he thinks fit pay a rebate to an employer who has paid an employee a redundancy payment in circumstances in which, owing to section 21 of this Act, the employee had no right to, and the

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employer had no liability for, the payment, if the Secretary of State is satisfied that it would be just and equitable to do so having regard to all the relevant circumstances.”.

13 In section 31(4) (repayment from Redundancy Fund in certain cases) for the words "the appropriate allocation to the Redundancy Fund" substitute the words " the amount paid into the Redundancy Fund from the appropriate employment protection allocation ".

14 In section 32(5) (definition of insolvency), at the end of paragraph (a) insert the words " or a receiving order is made against him ".

15 In section 32(b) (definition of insolvency in Scotland)—

- (a) for the words " paragraphs (a) and (b)" substitute the words " paragraphs (a), (b) and (c) ";
- (b) in paragraph (a) as substituted omit the word " or " in the third place where it occurs ; and
- (c) after paragraph (b) as substituted insert the following paragraph—

“; or

- (c) where the employer is a company, a winding up order has been made or a resolution for voluntary winding up is passed with respect to it or a receiver of its undertaking is duly appointed.”.

16 In section 34 after subsection (3) insert the following subsection—

“(3A) Where, in any case to which section 30(2A) of this Act applies, the Secretary of State refuses to pay a rebate, the employer may appeal to a tribunal; and if on any such appeal the tribunal is satisfied that it is just and equitable having regard to all the relevant circumstances that a rebate should be paid, the tribunal shall determine accordingly, and the Secretary of State shall comply with any such determination of a tribunal.”.

17 In section 35(2) (limit on advances from the National Loans Fund to the Redundancy Fund) for the words "£8 million" and " £20 million " substitute respectively the words " £16 million " and " £40 million ".

18 For section 48 (associated companies) substitute the following section—

“48 Associated employers.

(1) Any reference in Part I of this Act to re-engagement by the employer shall be construed as a reference to re-engagement by the employer or by any associated employer, and any reference in that Part of this Act to an offer made by the employer shall be construed as including a reference to an offer made by an associated employer.

(2) The preceding subsection shall not affect the operation of section 13 of this Act in a case where the previous owner and the new owner (as defined by that section) are associated employers; and where that section applies, the preceding subsection shall not apply.

(3) Where an employee is dismissed by his employer and—

- (a) neither of the conditions specified in paragraphs (a) and (b) of section 1(2) of this Act is fulfilled, but

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- (b) one or other of those conditions would be fulfilled if the business of the employer together with the business or businesses of his associated employers were treated as one business,
that condition shall for the purposes of Part I of this Act be taken to be fulfilled in relation to the dismissal of the employee.
- (4) For the purposes of this section any two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control; and the expression " associated employer " shall be construed accordingly.”.
- 19 In paragraph 1(1) of Schedule 1 (computation of period of employment for calculating redundancy payments) in paragraph (a) omit the word " and " , and after paragraph (b) insert the following paragraph:—
- “and
- (c) the period of any such interval as is referred to in section 8(3A) of this Act counted as a period of employment notwithstanding that it does not count under that Schedule.”.
- 20 In paragraph 1(2) of Schedule 1 for the words "or section 24 " substitute the words " , section 24 or section 24A " .
- 21 For paragraph 5 of Schedule 1 (computation of and limit on a week's pay for calculating redundancy payments) substitute the following paragraph:—
- “5 (1) For the purposes of Part II of Schedule 4 to the Employment Protection Act 1975 as it applies for the calculation of a week's pay for the purposes of this Schedule, the calculation date is, subject to sub-paragraph (3) below, the date on which notice would have been given by the employer had the conditions referred to in the next following sub-paragraph been fulfilled (whether those conditions were in fact fulfilled or not).
- (2) Those conditions are that the contract was terminable by notice and was terminated by the employer giving such notice as is required to terminate that contract by section 1(1) of the Contracts of Employment Act 1972 (minimum period of notice) and that the notice expired on the relevant date.
- (3) Where by virtue of section 3(10) of this Act a date is to be treated as the relevant date for the purposes of certain provisions of this Act (which do not include this sub-paragraph) which is later than the relevant date as denned by subsection (9) of that section, then, for the purposes of Part II of Schedule 4 to the Employment Protection Act 1975 as it applies for the calculation of a week's pay for the purposes of this Schedule, the calculation date is the relevant date as defined by the said subsection (9).
- (4) Notwithstanding anything in the said Part II of Schedule 4, the amount of a week's pay for the purpose of calculating a redundancy payment shall not exceed £80.
- (5) The Secretary of State may, after a review under section 86 of the Employment Protection Act 1975, vary the limit referred to in the preceding sub-paragraph by order made by statutory instrument in accordance with that section.
- ”

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(6) An order under this paragraph may contain such transitional and incidental provisions as appear to the Secretary of State to be necessary or expedient, and may be varied or revoked by a subsequent order made thereunder.

(7) Without prejudice to the generality of the power under the last preceding sub-paragraph to make transitional provision in an order under this paragraph, such an order may provide that it shall apply in the case of a dismissal in relation to which the relevant date for the purposes of this sub-paragraph falls after the order comes into operation, notwithstanding that the relevant date for the purposes of other provisions of this Act falls before the order comes into operation.”.

22 In paragraph 9 of Schedule 1 after the word "week" insert the words " , except in the expression " a week's pay," " and omit the words from " and " to the end.

23 For paragraphs 3 and 4 of Schedule 4 (renewal of employment by personal representative of deceased employer) substitute the following paragraphs—

“3 Where by virtue of subsection (1) of section 22 of this Act the death of the deceased employer is to be treated for the purposes of this Act as a termination by him of the contract of employment, section 3 of this Act shall have effect subject to the following modifications:—

(a) for subsection (3) there shall be substituted the following subsection—

“(3) If an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment, by a personal representative of the deceased employer and the renewal or re-engagement takes effect not later than eight weeks after the death of the deceased employer, then, subject to subsections (5) and (8) of this section, the employee shall not be regarded as having been dismissed by reason of the ending of his employment under the previous contract.”.

(b) in subsection (4) paragraph (a) shall be omitted and in paragraph (b) for the words " four weeks " there shall be substituted the words " eight weeks ";

(c) in subsections (7) and (8) references to the employer shall be construed as references to the personal representative of the deceased employer.

4 Where by reason of the death of the deceased employer the employee is treated for the purposes of this Act as having been dismissed by him, section 2 of this Act shall have effect subject to the following modifications—

(a) for subsection (3) there shall be substituted the following subsection—

“(3) If a personal representative of the deceased employer makes an employee an offer (whether in writing or not) to renew his contract of employment, or to re-engage him under a new contract of employment, so that the renewal or re-engagement would take effect not later than eight weeks after the death of

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- the deceased employer the provisions of subsections (5) and (6) of this section shall have effect.”;
- (b) in subsection (4) paragraph (a) shall be omitted and in paragraph (b) for the words " four weeks " there shall be substituted the words " eight weeks ";
- (c) in subsection (5) the reference to the employer shall be construed as a reference to the personal representative of the deceased employer.”.
- 24 In paragraph 5 of Schedule 4 at the end insert " or, as the case may be, whether the employee acted reasonably in terminating the renewed, or new, employment during the trial period referred to in section 3 of this Act ".
- 25 Paragraph 6 of Schedule 4 is hereby repealed.
- 26 In paragraph 7 of Schedule 4 for the words from " as mentioned " to " Schedule " substitute the words " by a personal representative of the deceased employer ".
- 27 Paragraph 12 of Schedule 4 is hereby repealed.
- 28 Renumber paragraph 16 of Schedule 4 (death of employee during notice period) as sub-paragraph (1) of that paragraph and after that sub-paragraph insert the following sub-paragraph:—
- “(2) Where the employee's contract of employment has been terminated by the employer and by virtue of section 3(10) of this Act a date later than the relevant date as defined by subsection (9) of that section is to be treated as the relevant date for the purposes of certain provisions of this Act, and before that later date the employee dies, the said subsection (10) shall have effect as if the notice referred to in that subsection as required to be given by an employer would have expired on the employee's death.”.
- 29 Renumber paragraph 17 of Schedule 4 (death of employee after offer of alternative employment) as sub-paragraph (1) of that paragraph.
- 30 In that sub-paragraph for the words from "subsection (3)" to the end substitute the words " subsection (5) of section 2 of this Act shall apply as if for the words " the employee unreasonably refuses" there were substituted the words " it would have been unreasonable on the part of the employee to refuse. ".
- 31 After that sub-paragraph insert the following sub-paragraph:—
- “(2) Where an employee's contract of employment has been renewed, or he has been re-engaged under a new contract of employment, and during the trial period the employee dies without having terminated or having given notice to terminate the contract, subsection (6) of that section shall apply as if for the words from " and during the trial period " to " terminated " there were substituted the words " and it would have been unreasonable for the employee, during the trial period referred to in section 3 of this Act, to terminate or give notice to terminate the contract”.
- 32 After paragraph 17 of Schedule 4, insert the following paragraph:—
- “17A Where an employee's contract of employment has been renewed, or he has been re-engaged under a new contract of employment, and during the trial period he gives notice to terminate the contract but dies before the expiry of that notice sections 2(6) and 3(8)(a) shall have effect as if

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that notice had expired and the contract had thereby been terminated on the date of the employee's death.”.

33 Renumber paragraph 20 of Schedule 4 as sub-paragraph (1) of that paragraph and—

- (a) in that sub-paragraph after the words " relevant date" insert the words " subsection (1) of "; and
- (b) after that sub-paragraph insert the following sub-paragraph—

“(2) In relation to the making of a claim by a personal representative of a deceased employee who dies after the end of the period of six months beginning with the relevant date and before the end of the following period of six months, subsection (2) of section 21 of this Act shall apply with the substitution, for the words " six months " , of the words " one year.”

34 After paragraph 21 of Schedule 4 insert the following paragraph—

“21A (1) If there is no personal representative of a deceased employee, tribunal proceedings arising under any of the provisions of this Act (or proceedings to enforce a tribunal award made in any such proceedings) may be instituted or continued on behalf of the estate of the deceased employee by such other person as the tribunal may appoint being either—

- (a) a person authorised by the employee to act in connection with the proceedings before the employees' death; or
- (b) the widower, widow, child, father, mother, brother or sister of the deceased employee,

and references in this Part of this Schedule to a personal representative shall be construed as including such a person.

(2) In such a case any award made by the tribunal shall be in such terms and shall be enforceable in such manner as may be provided by regulations made by the Secretary of State.

(3) Section 123 of the Employment Protection Act 1975 shall apply to this paragraph as if it were a provision of that Act.”.

PART II

CONTRACTS OF EMPLOYMENT ACT 1972

1 In sections 1(1) to (3) and 2 (minimum period of notice) for the words " thirteen weeks ", wherever they occur, substitute the words " four weeks ".

2 In section 1(1) for paragraphs (b) to (e) substitute the following paragraphs—

- “(b) shall be not less than one week's notice for each year of continuous employment if his period of continuous employment is two years or more but less than twelve years ; and
- (c) shall be not less than twelve weeks' notice if his period of continuous employment is twelve years or more.”.

3 In section 1(4) (contract for a term certain to be treated in certain cases as a contract for an indefinite period) for the words " thirteen weeks " substitute the words " twelve weeks ".

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- 4 In section 4(1) (written statement of terms of employment).—
- (a) after the words " the date when the employment began ", insert the words " stating whether any employment with a previous employer counts as part of the employee's continuous period of employment with him, and if so specifying the date on which the continuous period of employment began "; and
 - (b) after paragraph (e) insert " and (f) the title of the job which the employee is employed to do: ".
- 5 In section 4(2) (written particulars to contain note about grievance procedure)—
- (a) at the beginning insert the words " Subject to subsection (2A) of this section "; and
 - (b) for paragraphs (b) and (c) substitute the following paragraphs:—
 - “(a) specifying any disciplinary rules applicable to the employee, or referring to a document which is reasonably accessible to the employee and which specifies such rules ;
 - (b) specifying, by description or otherwise—
 - (i) a person to whom the employee can apply if he is dissatisfied with any disciplinary decision relating to him ; and
 - (ii) a person to whom the employee can apply for the purpose of seeking redress of any grievance relating to his employment,and the manner in which any such applications should be made ; and
 - (c) where there are further steps consequent upon any such application, explaining those steps or referring to a document which is reasonably accessible to the employee and which explains them,”.
- 6 After section 4(2) insert the following subsection—
- “(2A) The provisions of paragraphs (a) to (c) of subsection (2) of this section shall not apply to rules, disciplinary decisions, grievances or procedures relating to health or safety at work.”.
- 7 In section 4(7) (part-time employment)—
- (a) at the beginning insert the words " Subject to the following provisions of this section, "; and
 - (b) for the words " twenty-one hours" substitute the words " sixteen hours ".
- 8 After section 4(7) insert the following subsections—
- “(8) If the employee's relations with his employer cease to be governed by a contract which normally involves work for sixteen hours or more weekly and become governed by a contract which normally involves employment for eight hours or More, but less than sixteen hours, weekly, the employee shall nevertheless for a period of twenty-six weeks computed in accordance with the next following subsection be treated for the purposes of the foregoing subsection as if his contract normally involved employment for sixteen hours or more weekly.
 - (9) In computing the said period of twenty-six weeks no account shall be taken of any week—

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- (a) during which the employee is in fact employed for sixteen hours or more ;
 - (b) during which the employee takes part in a strike (as defined in paragraph 11 of Schedule 1 to this Act), or is absent from work because of a lock-out (as so defined) by his employer ; or
 - (c) during which there is no contract of employment but which, by virtue of paragraph 5(1) of Schedule 1 to this Act, counts in computing a period of continuous employment
- (10) An employee whose relations with his employer are governed by a contract of employment which normally involves employment for eight hours or more, but less than sixteen hours, weekly shall nevertheless, if he has been continuously employed for a period of five years or more (computed in accordance with Schedule 1 to this Act) be treated for the purposes of subsection (7) of this section as if his contract normally involved employment for sixteen hours or more weekly.”.
- 9 In section 5(4) (written statement of change in terms of employment), after the word " but" insert the words " subject to subsection (5) of this section " , and after that subsection insert the following subsection—
- “(5) A written statement under this section which informs an employee of such a change in his terms of employment as is referred to in subsection (4)(b) of this section shall specify the date on which the employee's continuous period of employment began.”.
- 10 In section 9 (excluded categories of employees)—
- (a) after subsection (2) insert the following subsection:—
 - “(2A) Section 1 of this Act shall not apply to a person employed under a contract made in contemplation of the performance of a specific task which is not expected to last for more than twelve weeks, unless the employee has been continuously employed for a period of more than twelve weeks (computed in accordance with Schedule 1 to this Act).”;
 - (b) in subsection (3) for the words from " father " to " daughter " substitute the words " husband or wife " .
- 11 For section 10 (power to vary number of weekly hours of employment necessary to qualify for rights) substitute the following section:—

“10 Power to vary number of weekly hours of employment necessary to qualify for rights.

- (1) The Secretary of State shall have power by order to provide that this Act shall have effect as if—
 - (a) for each of the references to sixteen hours in section 4(7) to (10) of this Act and in paragraphs 3, 4, 4A, 4B and 4C of Schedule 1 to this Act there were substituted a reference to such other number of hours less than sixteen as may be specified in the order ; and
 - (b) as if for each of the references to eight hours in section 4(7), (8) and (10) of this Act and in paragraphs 4B and 4C of the said Schedule there were substituted a reference to such other number of hours less than eight as may be specified in the order.

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- (2) An order under the foregoing subsection shall affect the operation of Schedule 1 to this Act as respects periods before the order takes effect as well as respects later periods.
 - (3) An order under this section may contain such transitional and other supplemental and incidental provisions as appear to the Secretary of State to be expedient, and may be varied or revoked by a further order so made.
 - (4) An order under this section shall be made by statutory instrument, but no such order shall be made unless a draft of the order has been laid before Parliament and approved by resolution of each House.”.
- 12 For paragraph 1(1) of Schedule 1 (computation of period of employment) substitute the following sub-paragraph—
- “(1) Where an employee's period of employment is, for the purposes of any enactment (including any enactment contained in this Act), to be computed in accordance with this Schedule, it shall be computed in weeks, and in any such enactment which refers to a period of employment expressed in years, a year means 52 weeks (whether continuous or discontinuous) which count in computing a period of employment.”.
- 13 In paragraph 3 and 4 of Schedule 1 for the words " twenty-one hours" wherever they occur substitute the words " sixteen hours ".
- 14 After paragraph 4 of Schedule 1 insert the following paragraphs—
- “4A (1) If the employee's relations with his employer cease to be governed by a contract which normally involves work for sixteen hours or more weekly and become governed by a contract which normally involves employment for eight hours or more, but less than sixteen hours, weekly, and but for that change the later weeks would count in computing a period of employment, or would not break the continuity of a period of employment, then those later weeks shall count in computing a period of employment or, as the case may be, shall not break the continuity of a period of employment, notwithstanding that change.
- (2) Not more than twenty-six weeks shall count under this paragraph between any two periods falling under paragraph 4 of this Schedule, and in computing the said figure of twenty-six weeks no account shall be taken of any week which counts in computing a period of employment, or does not break the continuity of a period of employment, otherwise than by virtue of this paragraph.
- 4B (1) An employee whose relations with his employer are governed, or have been from time to time governed, by a contract of employment which normally involves employment for eight hours or more, but less than sixteen hours, weekly shall nevertheless, if he satisfies the condition referred to in the next following sub-paragraph, be treated for the purposes of this Schedule (apart from this paragraph) as if his contract normally involved employment for sixteen hours or more weekly, and had at all times at which there was a contract during the period of employment of five years or more referred to in the next following sub-paragraph normally involved employment for sixteen hours or more weekly.

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- (2) The foregoing sub-paragraph shall apply if the employee, on the date by reference to which the length of any period of employment falls to be ascertained in accordance with the provisions of this Schedule, has been continuously employed, within the meaning of the next following sub-paragraph, for a period of five years or more.
- (3) In computing, for the purposes of the foregoing sub-paragraph, an employee's period of employment the provisions of this Schedule (apart from this paragraph) shall apply but as if, in paragraphs 3 and 4, for the words "sixteen hours" wherever they occur, there were substituted the words " eight hours ".
- 4C (1) If an employee has, at any time during the relevant period of employment, been continuously employed for a period which qualifies him for any right which requires a qualifying period of continuous employment computed in accordance with this Schedule, then, he shall be regarded for the purposes of qualifying for that right as continuing to satisfy that requirement until the condition referred to in sub-paragraph (3) of this paragraph occurs.
- (2) In this paragraph the relevant period of employment means the period of employment ending on the date by reference to which the length of any period of employment falls to be ascertained which would be continuous (in accordance with the provisions of this Schedule) if at all relevant times the employee's relations with the employer had been governed by a contract of employment which normally involved employment for sixteen hours or more weekly.
- (3) The condition which defeats the operation of sub-paragraph (1) of this paragraph is that in a week subsequent to the time at which the employee qualified as referred to in that sub-paragraph—
- (a) his relations with his employer are governed by a contract of employment which normally involves employment for less than eight hours weekly ; and
 - (b) he is employed in that week for less than sixteen hours.
- (4) If, in a case in which an employee is entitled to any right by virtue of sub-paragraph (1) of this paragraph, it is necessary for the purpose of ascertaining the amount of his entitlement to determine for what period he has been continuously employed, he shall be regarded for that purpose as having been continuously employed throughout the relevant period.”.
- 15 In paragraph 5(1) of Schedule 1 after paragraph (c) insert the following paragraph:
 —
- “or
- (d) absent from work wholly or partly because of pregnancy or confinement," and for the words " or paragraph 4 " substitute the words " , 4 or 4A."
- 16 In paragraph 5(2) of Schedule 1, after the words "paragraph (c)" insert the words " or, subject to paragraph 5A below, paragraph (a) ", and for the words " two periods falling under paragraphs 3 and 4 " substitute the words " periods falling under paragraph 3, 4 or 4A ".

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- 17 After paragraph 5 of Schedule 1, insert the following paragraph:—
- “5A If an employee returns to work in accordance with section 49 of the Employment Protection Act 1975 after a period of absence from work wholly or partly occasioned by pregnancy or confinement, every week during that period shall count in computing a period of employment, notwithstanding that it does not fall under paragraph 3, 4 or 4A of this Schedule.”.
- 18 In paragraph 6(1) of Schedule 1, for the words "paragraph 4 or paragraph 5 ", substitute the words " 4, 4A, 5, or 5A ".
- 19 For paragraph 10 of Schedule 1, substitute the following paragraph:—
- “10 (1) If an employee of an employer is taken into the employment of another employer who, at the time when the employee enters his employment is an associated employer of the first mentioned employer, the employee's period of employment at that time shall count as a period of employment with the second mentioned employer and the change of employer shall not break the continuity of the period of employment.
- (2) For the purposes of this paragraph, any two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control; and the expression " associated employer" shall be construed accordingly.”.

PART III

TRADE UNION AND LABOUR RELATIONS ACT 1974

- 1 In sections 8 and 11, and in Schedule 2, for the words "Registrar of Friendly Societies" and "Registrar" wherever they occur substitute the words " Certification Officer ".
- 2 In section 8, after subsection (6) insert the following subsection:—
- “(6A) The Certification Officer shall remove the name of an organisation from the relevant list—
- (a) if he is requested by the organisation to do so, or
- (b) if he is satisfied that the organisation has ceased to exist.”.
- 3 For section 8(7) substitute the following subsection:—
- “(7) Any organisation aggrieved by the refusal of the Certification Officer to enter its name in the relevant list or by a decision of his to remove its name from that list may appeal, in accordance with section 88(3) of the Employment Protection Act 1975, to the Employment Appeal Tribunal; and on any such appeal the Tribunal, if satisfied that the name should be or remain so entered, shall declare that fact and give directions to the Certification Officer accordingly.”.
- 4 In section 8(9), for the words from "Chief Registrar" to the end of the subsection substitute the words " Certification Officer under paragraph 13(2) of Schedule 1 to the Employment Protection Act 1975. ".

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- 5 In section 8(10), for the words from the beginning to " employers' associations " substitute the words " The fact that the name of an organisation is included in the list of trade unions or employers' associations shall be evidence (and in Scotland sufficient evidence) that the organisation is a trade union or, as the case may be, an employers' association, and on the application of the organisation ", and omit the words from " and that the organisation " to the end.
- 6 Renumber section 17 (restriction on grant of ex parte injunctions and interdicts) as subsection (1) of that section and at the end of that section insert the following subsections:—
- “(2) It is hereby declared for the avoidance of doubt that where an application is made to a court, pending the trial of an action, for an interlocutory injunction and the party against whom the injunction is sought claims that he acted in contemplation or furtherance of a trade dispute, the court shall, in exercising its discretion whether or not to grant the injunction, have regard to the likelihood of that party's succeeding at the trial of the action in establishing the matter or matters which would, under any provision of section 13, 14(2) or 15 above, afford a defence to the action.
- (3) Subsection (2) above shall not extend to Scotland.”
- 7 (1) In section 30(1), after the definition of " act " and " action " insert—
- “" Certification Officer " means the officer appointed under section 7 of the Employment Protection Act 1975 ;”.
- (2) In that subsection, after the definition of " employee " insert—
- “" employer " (subject to subsection (2) below)—
- (a) where the reference is to an employer in relation to an employee, means the person by whom the employee is (or, in a case where the employment has ceased, was) employed, and
- (b) in any other case, means a person regarded in that person's capacity as one for whom one or more workers work, or have worked or normally work or seek to work;”.
- (3) In that subsection, at the end of the definition of "independent trade union " insert " and ' in relation to a trade union' " independence " and " independent" shall be construed accordingly ; ”.
- (4) In that subsection, after the definition of "individual proprietor" insert—
- “" job ", in relation to an employee, means the nature of the work which he is employed to do in accordance with his contract and the capacity and place in which he is so employed;”.
- (5) In that subsection, after the definition of " 1971 Act", insert—
- “" officer ", in relation to a trade union or an employers' association includes any member of the governing body of that union or association and any trustee of any fund applicable for the purposes of that union or association ;”.
- 8 In paragraph 5(3) of Schedule 1 (meaning of dismissal), omit the words " obligatory " and " in writing ”.
- 9 Omit paragraph 5(4) of Schedule 1.
- 10 After paragraph 5(5) of Schedule 1 insert the following sub-paragraph—

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“(6) Where the notice required to be given by an employer by section 1(1) of the Contracts of Employment Act 1972 (minimum period of notice) would, if duly given when notice of termination was given by the employer, or (where no notice was given) when the contract of employment was terminated by the employer, expire on a date later than the effective date of termination as defined by sub-paragraph (5) above, that later date shall be treated as the effective date of termination in relation to the dismissal for the purposes of paragraph 10(a) below and of sections 70(2), 74(3) and 75(6) of the Employment Protection Act 1975 (written statement of reasons for dismissal and calculation of basic award of compensation for unfair dismissal).”.

11 After paragraph 6(4) of Schedule 1, insert the following sub-paragraph:—

“(4A) In sub-paragraph (4) above, " appropriate time" in relation to an employee taking part in the activities of a trade union, means time which either—

- (a) is outside his working hours, or
- (b) is a time within his working hours at which, in accordance with arrangements agreed with or consent given by his employer, it is permissible for him to take part in those activities;

and in this sub-paragraph "working hours", in relation to an employee, means any time when, in accordance with his contract of employment, he is required to be at work.”.

12 After paragraph 6(5) of Schedule 1 (dismissal in closed shop situation), insert the following sub-paragraph:—

“(5A) For the purposes of sub-paragraph (5) above a union shall be treated as specified for the purposes of or in relation to a union membership agreement (in a case where it would not otherwise be so treated) if—

- (a) the Service has made a recommendation for recognition covering the employee in question which is operative within the meaning of section 15 of the Employment Protection Act 1975 ; or
- (b) the union has referred a recognition issue (within the meaning of that Act) covering that employee to the Advisory, Conciliation and Arbitration Service under section 11 of that Act and the Service has not declined to proceed on the reference under section 12 of that Act, the union has not withdrawn the reference, or from the reference, and the issue has not been settled or reported on under that section.”.

13 For paragraphs 7 and 8 of Schedule 1 (dismissal in connection with industrial action) substitute the following paragraph:—

“7 (1) The provisions of this paragraph shall have effect in relation to an employee who claims that he has been unfairly dismissed by his employer where at the date of dismissal—

- (a) the employer was conducting or instituting a lock-out; or
- (b) the employee was taking part in a strike or other industrial action.

(2) In such a case an industrial tribunal shall not determine whether the dismissal was fair or unfair unless it is shown—

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- (a) that one or more relevant employees of the same employer have not been dismissed, or
 - (b) that one or more such employees have been offered re-engagement, and that the employee concerned has not been offered re-engagement.
- (3) Where it is shown that the condition referred to in paragraph (b) of sub-paragraph (2) above is fulfilled, the provisions of paragraph 6 above and of section 34 of the Employment Protection Act 1975 shall have effect as if in that paragraph and that section for any reference to the reason or principal reason for which the employee was dismissed there were substituted a reference to the reason or principal reason for which he has not been offered re-engagement.
- (4) Paragraph 21(4) below shall apply in relation to a complaint to which sub-paragraph (3) above applies as if for references to the effective date of termination there were substituted a reference to the first date on which any relevant employee was offered re-engagement.
- (5) In this paragraph—
- (a) " date of dismissal " means—
 - (i) where the employee's contract of employment was terminated by notice, the date on which the employer's notice was given, and
 - (ii) in any other case, the effective date of termination.
 - (b) " relevant employees " means—
 - (i) in relation to a lock-out, employees who were directly interested in the trade dispute in contemplation or furtherance of which the lock-out occurred, and
 - (ii) in relation to a strike or other industrial action, employees who took part in it; and
 - (c) any reference to an offer of re-engagement is a reference to an offer (made either by the original employer or by a successor of that employer or an associated employer) to re-engage an employee, either in the job which he held immediately before the date of dismissal or in a different job which would be reasonably suitable in his case.”.
- 14 (1) In paragraph 9(1) of Schedule 1—
- (a) omit paragraph (a);
 - (b) in paragraph (b), omit the words " or a close relative "; and
 - (c) omit paragraphs (e) and (f).
- (2) Omit paragraph 9(4) of Schedule 1.
- 15 In paragraph 11(1) of Schedule 1 for the words "Paragraphs 9(1) (a) and 10 " substitute the words " Paragraph 10 ".
- 16 In paragraph 17(1) of Schedule 1 omit the words " or by a person acting on the employer's behalf " (which are unnecessary).
- 17 For paragraph 20 of Schedule 1 substitute the following paragraph:—
- “20 (1) The amount of compensation awarded to a person under section 72(1) of the Employment Protection Act 1975 or of a compensatory award to

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a person calculated in accordance with section 76 of that Act shall not exceed £5,200.

(2) The Secretary of State may by order increase the said limit of £5,200 or that limit as from time to time increased under this sub-paragraph, but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(3) It is hereby declared for the avoidance of doubt that the limit imposed by this paragraph applies to the amount which the industrial tribunal would, apart from this paragraph, otherwise award in respect of the subject matter of the complaint after taking into account any payment made by the respondent to the complainant in respect of that matter and any reduction in the amount of the award required by any enactment or rule of law.

(4) Section 123 of the Employment Protection Act 1975 shall apply to this paragraph as if it were a provision of that Act.”.

18 In paragraph 21(3) of Schedule 1, after the words "paragraph 17 above " insert the words " or any other enactment in relation to which there is provision for conciliation, ".

19 After paragraph 21(3) of Schedule 1 insert the following sub-paragraph:—

“(3A) In relation to proceedings under paragraph 17 above—

- (a) where the employee has expressed a wish to be re-instated or re-engaged which has been communicated to the employer at least seven days before the hearing of the complaint; or
- (b) where the proceedings arise out of the employer's failure to permit the employee to return to work after an absence due to pregnancy or confinement,

regulations shall include provision for requiring the employer to pay the costs or expenses of any postponement or adjournment of the hearing caused by his failure, without a special reason, to adduce reasonable evidence as to the availability of the job from which the complainant was dismissed, or, as the case may be which she held before her absence, or of comparable or suitable employment.”.

20 In paragraph 21(4) of Schedule 1 at the beginning insert the words " Subject to sub-paragraph (4A) below ", and for the word "within" in the second place in which it occurs substitute the words " before the end of ".

21 After paragraph 21(4) of Schedule 1 insert the following sub-paragraph:—

“(4A) An industrial tribunal shall consider a complaint under paragraph 17 of Schedule 1 above if, where the dismissal is with notice, the complaint is presented after the notice is given notwithstanding that it is presented before the effective date of termination and in relation to such a complaint the provisions of this Act and of the Employment Protection Act 1975, so far as they relate to unfair dismissal, shall have effect—

- (a) as if references to a complaint by a person that he was unfairly dismissed by his employer included references to a complaint by a person that his employer has given him notice in such circumstances that he will be unfairly dismissed when the notice expires ;

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- (b) as if references to reinstatement included references to the withdrawal of the notice by the employer ;
 - (c) as if references to the effective date of termination included references to the date which would be the effective date of termination on the expiry of the notice ; and
 - (d) as if references to an employee ceasing to be employed included references to an employee having been given notice of dismissal.”.
- 22 In paragraph 21(5) of Schedule 1, in paragraph (c) for the words "be seriously prejudicial to the interests of" substitute the words " cause substantial injury to ".
- 23 After paragraph 21(5) of Schedule 1 insert the following sub-paragraph :—
- “(5A) The regulations may include provision authorising or requiring an industrial tribunal, in circumstances specified in the regulations, to send notice or a copy of any document so specified relating to any proceedings before the tribunal, or of any decision, order or award of the tribunal, to any Minister, government department or other person or body so specified.”.
- 24 In paragraph 26(3) of Schedule 1—
- (a) in paragraph (a) omit the words " his engagement ";
 - (b) for paragraph (b) substitute:—
 - “(b) where the complainant does not wish to be reinstated or re-engaged, or where reinstatement or re-engagement is not practicable,”; and
 - (c) for the word " they " substitute the words " the parties ".
- 25 After paragraph 26(4) of Schedule 1 insert the following sub-paragraph :—
- “(4A) In proceeding under sub-paragraphs (2) to (4) above a conciliation officer shall where appropriate have regard to the desirability of encouraging the use of other procedures available for the settlement of grievances.”.
- 26 In paragraph 27(1) of Schedule 1, after the words " this Schedule " insert the words " and sections 33, 34, 51 and 71 to 80 of the Employment Protection Act 1975 ".
- 27 In paragraph 27(2) of Schedule 1, for the words from " paragraph 19 " to the end of the sub-paragraph substitute:—
- “(a) section 72(2)(b) of the Employment Protection-Act 1975 shall have effect as if for the words " not practicable to comply " there were substituted the words " not practicable for the local education authority to permit compliance " ; and
 - (b) section 76(5) of the said Act of 1975 shall have effect as if any reference to the employer were a reference to the local education authority.”.
- 28 In paragraph 28(2) of Schedule 1 for the word "claimant" substitute the word " complainant ".
- 29 After paragraph 30(1) of Schedule 1 insert the following sub-paragraph :—
- “(1A) Where by virtue of paragraph 5(6) above a date is to be treated as the effective date of termination for the purpose of paragraph 10(a) above which is later than the effective date of termination as defined by

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paragraph 5(5) above, then in determining for the purpose of paragraph 10(a) above for what period an employee has been continuously employed, the period of the interval between those two dates shall count as a period of employment notwithstanding that it does not count under the said Schedule 1.”.

- 30 In paragraph 30(3) of Schedule 1, for the words from "section 24 " to the end of the sub-paragraph substitute—

“sections 24 and 24A of the Redundancy Payments Act 1965 (which require the continuity of a period of employment to be treated as broken for the purposes of that Act where a redundancy payment or an equivalent payment is paid to an employee and he is subsequently re-engaged) subject to the recovery of any such payment, in cases where, in consequence of action to which sub-paragraph (4) below applies, a dismissed employee is re-instated or re-engaged by his employer or by a successor or associated employer of that employer.”.

- 31 In paragraph 31(1)(b) of Schedule 1 (nominations by members of trade unions) for the words " £500 " substitute the words " £1,500 ".

- 32 In paragraph 31 of Schedule 1, for sub-paragraphs (4) and (5) substitute the following sub-paragraph:—

“(4) Sub-paragraph (1)(b) above shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the Administration of Estates (Small Payments) Act 1965, substituting, for references to the amount for the time being provided for, references to such higher amount as may be specified in the order.”.

- 33 In paragraph 33(2) of Schedule 1, after the words " government department" insert the words " or any officer or body exercising on behalf of the Crown functions conferred by any enactment ", and in paragraph 33(3)(e) of that Schedule, after the word "department" in the second, third and fourth places where it occurs insert the words " , officer or body ".

- 34 After paragraph 33(4) of Schedule 1, insert the following sub-paragraph:—

“(4A) For the purposes of the application of the provisions of this Act in relation to employment by any such body as is referred to in sub-paragraph (4)(a) above, any reference to redundancy shall be construed as a reference to the existence of such circumstances as, in accordance with any arrangements for the time being in force as mentioned in section 41(3) of the Redundancy Payments Act 1965, are treated as equivalent to redundancy in relation to such employment.”.

- 35 (1) For the avoidance of doubt it is hereby declared that the change of name of the Industrial Court to the Industrial Arbitration Board originally effected by section 124(2) of the Industrial Relations Act 1971 and continued in force, so far as the Industrial Courts Act 1919 is concerned, by paragraph 3 of Schedule 3 to the 1974 Act, shall, as respects the relevant period, be taken not to have divested that body of any functions under any other enactment or any instrument notwithstanding that after the repeal by the 1974 Act of the said section 124(2) references in any such other enactment or any such instrument to the Industrial Court were no longer expressly directed to be construed as references to the Industrial Arbitration Board.

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- (2) In this paragraph "the relevant period" means the period beginning with 16th September 1974 (the day appointed for the coming into operation of the said Schedule 3) and ending with the repeal by this Act of Part I of the Industrial Courts Act 1919.

PART IV

MISCELLANEOUS AMENDMENTS

House of Commons Offices Act 1846 (c. 77)

- 1 In section 5 of the House of Commons Offices Act 1846, after the words " the said first-recited Act" insert the words " , the Employment Protection Act 1975, ".

Trade Union Act 1913 (2 & 3 Geo. 5 c. 30)

- 2 (1) The Trade Union Act 1913 shall be amended in accordance with the following provisions of this paragraph.
- (2) In sections 3 to 5 for the words " Registrar of Friendly Societies" and " Registrar" wherever they occur substitute the words " Certification Officer ".
- (3) After section 5 insert the following section—

“5A Appeals.

An appeal shall lie, in accordance with section 88(2) of the Employment Protection Act 1975, to the Employment Appeal Tribunal on any question of law arising in any proceedings before or arising from any decision of the Certification Officer under section 3, 4 or 5 of this Act.”.

- (4) For section 7 substitute—

“7 Definition of Certification Officer.

In this Act references to the " Certification Officer " are references to the officer appointed under section 7 of the Employment Protection Act 1975.”.

Industrial Courts Act 1919 (c. 69)

- 3 (1) The Industrial Courts Act 1919 shall be amended in accordance with the following provisions of this paragraph.
- (2) The following provisions and passages are hereby repealed:—
- Sections 1, 2 and 3.
- In section 4(1), the words " whether or not the dispute is reported to him under Part I of this Act ".
- In section 7, the words " of the Industrial Arbitration Board and ".
- In section 9, the words " before the Industrial Arbitration Board, before an arbitrator or ".
- Sections 11 and 12.

(3) For section 8 substitute—

“8 Interpretation.

In this Act the expressions " trade dispute" and " worker " have the same meaning as in the Trade Union and Labour Relations Act 1974.”.

(4) For section 10 substitute—

“10 Employment under the Crown.

- (1) Subject to the following provisions of this section, the provisions of this Act shall have effect in relation to Crown employment and to workers who are Crown employees as they have effect in relation to other employment and to other workers.
- (2) In this section " Crown employment" means, subject to subsection (3) of this section, employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by any enactment.
- (3) This section does not apply to service as a member of the naval, military or air forces of the Crown or of any women's service administered by the Defence Council, but does apply to employment by any association established for the purposes of the Auxiliary Forces Act 1953.
- (4) A Minister of the Crown may exempt from the provisions of this section employment of a specified description or the employment of a particular person by certificate stating that such exemption is required for the purpose of safeguarding national security; and any document purporting to be such a certificate shall, unless the contrary is proved, be deemed to be such a certificate.”.

Road Haulage Wages Act 1938 (c. 44)

- 4 (1) The Road Haulage Wages Act 1938 shall be amended in accordance with the following provisions of this paragraph.
- (2) In sections 4 and 5 for the word "Minister" substitute the word " Service " and in section 15(1) after the definition of " Road haulage work " and " Road haulage worker " insert—

“ Service ' means the Advisory, Conciliation and Arbitration Service.”.
- (3) In sections 4, 5 and 8 for the words " Industrial Court " and "Court" wherever they occur substitute respectively the words " Central Arbitration Committee " and " Committee ".
- (4) In section 4(6) for the words "the Industrial Courts Act, 1919 " substitute the words " section 3 of the Employment Protection Act 1975 ".
- (5) Section 5(5) is hereby repealed.

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Civil Aviation Act 1949 (c. 67)

- 5 In section 15 of the Civil Aviation Act 1949 in subsection (2) for the word " Minister " substitute the words " Advisory, Conciliation and Arbitration Service ", and in subsections (2) and (3) for the words " Industrial Court " and " Court " wherever they occur substitute respectively the words " Central Arbitration Committee " and " Committee."

Public Records Act 1958 (c. 51)

- 6 In Part II of the Table at the end of paragraph 3(2) of Schedule 1 to the Public Records Act 1958 insert at the appropriate place in alphabetical order the following entry—
“Commission on Industrial Relations.”.

Road Traffic Act 1960 (c. 16)

- 7 In section 152 of the Road Traffic Act 1960.—
(a) for subsection (2) substitute the following subsection:—
“(2) Any organisation representative of the persons engaged in the road transport industry may make representations to the Advisory, Conciliation and Arbitration Service to the effect that the wages paid to, or the conditions of employment of, any persons employed by the holder of a road service licence are not in accordance with the requirements of the foregoing subsection, and if the matter in dispute is not otherwise disposed of it shall be referred by the Service to the Central Arbitration Committee for settlement.”; and
(b) in subsections (3) and (4) for the words " Industrial Court" and " Court", wherever they occur, substitute respectively the words " Central Arbitration Committee " and "Committee ".

Films Act 1960 (c. 57)

- 8 In section 42 of the Films Act 1960 for the words " Minister of Labour" substitute the words " Advisory, Conciliation and Arbitration Service " and for the words " industrial court" and " court" wherever they occur substitute respectively the words " Central Arbitration Committee " and " Committee ".

Education (Scotland) Act 1962 (c. 47)

- 9 (1) The Education (Scotland) Act 1962 shall be amended in accordance with the following provisions of this paragraph.
(2) In section 85, subsection (3) and, in subsection (5), the word " (3) " are hereby repealed.
(3) In section 123(2), in the proviso, the words from "and ", where secondly occurring, to the end are hereby repealed.
(4) After section 123(2), insert the following subsection—
“(2A) In any scheme for any endowment, any provision which applies subsection (3) of section 85 of this Act to any certificated or registered

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teacher in the employment of the governing body of that endowment, or which has, in relation to such a teacher, the like effect as such a provision, shall cease to have effect.”.

Trade Union (Amalgamations, etc.) Act 1964 (c. 24)

- 10 (1) The Trade Union (Amalgamations etc.) Act 1964 shall be amended in accordance with the following provisions of this paragraph.
- (2) In sections 1, 4, 6 and 7 (and the Schedules), for the word " Registrar " wherever it occurs substitute the words " Certification Officer " , and in section 9(1) after the definition of " the amalgamating unions " and " the amalgamated union " insert—
- “ Certification Officer ' means the officer appointed under section 7 of the Employment Protection Act 1975.”.
- (3) For section 4(8) substitute the following subsection—
- “(8) An appeal shall lie, in accordance with section 88(2) of the Employment Protection Act 1975, at the instance of the complainant or the trade union to the Employment Appeal Tribunal on any question of law arising in any proceedings before, or arising from any decision of, the Certification Officer under this section.”.

Remuneration of Teachers Act 1965 (c. 3)

- 11 (1) The Remuneration of Teachers Act 1965 shall be amended in accordance with the following provisions of this paragraph.
- (2) In section 3(3) for the words "Minister of Labour" substitute the words " Advisory, Conciliation and Arbitration Service " ; and references in any arrangements made by the Secretary of State under section 3(1) to the Minister of Labour shall be construed as references to the Service.
- (3) In section 3(3), the words from " and, where arbitrators" to the end, and section 6(d) are hereby repealed.

Remuneration of Teachers (Scotland) Act 1967 (c. 36)

- 12 (1) The Remuneration of Teachers (Scotland) Act 1967 shall be amended in accordance with the following provisions of this paragraph.
- (2) In section 3(3) for the words " Minister of Labour" substitute the words " Advisory, Conciliation and Arbitration Service " ; and references in any arrangements made by the Secretary of State under section 3(1) to the Minister of Labour shall be construed as references to the Service.
- (3) In section 3(3), the words from " and, where arbiters " to the end, and section 7(c) are hereby repealed.

Equal Pay Act 1970 (c. 41)

- 13 (1) The Equal Pay Act 1970 shall be amended in accordance with the following provisions of this paragraph.

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- (2) In sections 3, 4, 5, 7 and 10, for the words "Industrial Arbitration Board" (being words substituted by Part I of Schedule 1 to the Sex Discrimination Act 1975), wherever they occur, substitute the words " Central Arbitration Committee ".
- (3) In sections 4, 5 and 10 for the word " Board " (being a word so substituted), wherever it occurs except in the expression " Agricultural Wages Board ", substitute the word " Committee ".
- (4) In section 3(1), for the words " Part I of the Industrial Courts Act 1919 " there shall be substituted the words " section 10 of the Employment Protection Act 1975 ".
- (5) In section 3(2), for paragraph (b) substitute the following paragraph—
- “(b) if an award or determination is, or has been, made under any enactment requiring an employer to observe the collective agreement, that award or determination shall have effect by reference to the agreement as so amended.”
- (6) In section 4, in subsections (1) and (2), for the words " wages regulation order " wherever they occur there shall be substituted the words " order under section 11 of the Wages Council Act 1959 ".
- (7) In section 4(1) for the words from "the Secretary of State" in the second place where they occur to the end there shall be substituted the words " it shall be the duty of the wages council or statutory joint industrial council, by a further order coming into operation not later than five months after the date of the Committee's decision, either to make those amendments in the order referred to by the Committee or otherwise to replace or amend that order so as to remove the discrimination. ".
- (8) In section 4, after subsection (1) there shall be inserted the following subsection—
- “(1A) Where a wages council or statutory joint industrial council certifies that the effect of an order under section 11 of the Wages Councils Act 1959 is only to make such amendments of a previous order as have under this section been declared by the Central Arbitration Committee to be needed, or to make such amendments as aforesaid with minor modifications or modifications of limited application, or is only to revoke and reproduce with such amendments a previous order, then the wages council or statutory joint industrial council may instead of complying with subsections (3) and (3A) of the said section 11 give notice of the proposed order in such manner as appears to the council expedient in the circumstances, and may make the order at any time after the expiration of seven days from the giving of the notice.”.
- (9) In section 4, for subsection (2) there shall be inserted the following subsection—
- “(2) An order under section 11 of the Wages Councils Act 1959 shall be referred to the Central Arbitration Committee under this section if the Secretary of State is requested so to refer it either—
- (a) by an employers' association for the time being entitled to nominate for membership of the wages council or statutory joint industrial council in question persons representing employers (or, if provision is made for any of the persons representing employers to be elected instead of nominated, then by a member or members representing employers); or

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- (b) by a trade union for the time being entitled to nominate for membership of the wages council or statutory joint industrial council in question persons representing workers (or, if provision is made for any of the persons representing workers to be elected instead of nominated, then by a member or members representing workers); or if in any case it appears to the Secretary of State that the order may be amendable under this section.”.
- (10) In section 4(3), after the words "12(1)" wherever they occur there shall be inserted the words " or (1A) ", and for the words "11(7)" there shall be substituted the words " 11(8) ".
- (11) Section 4(4) is hereby repealed.

Tribunals and Inquiries Act 1971 (c. 62)

- 14 Section 13 of the Tribunals and Inquiries Act 1971 (which, among other things, makes provision for appeals from and the statement of cases by industrial tribunals to the High Court or the Court of Session) shall, in its application to industrial tribunals, be taken as referring to those tribunals only when exercising jurisdiction other than under the Acts referred to in section 88(1) above.

Independent Broadcasting Authority Act 1973 (c. 19)

- 15 In section 16 of the Independent Broadcasting Authority Act 1973 for the words " Secretary of State " wherever they occur substitute the words " Advisory, Conciliation and Arbitration Service " and for the words " Industrial Arbitration Board" and " Board" wherever they occur substitute respectively the words " Central Arbitration Committee " and " Committee ".

House of Commons Disqualification Act 1975 (c. 24)

- 16 (1) The House of Commons Disqualification Act 1975 shall be amended in accordance with the following provisions of this paragraph.
- (2) In Part II of Schedule 1 (bodies of which all members are disqualified under that Act), insert, at the appropriate places in alphabetical order, the following entries:—
- “The Central Arbitration Committee.”
- “The Council of the Advisory, Conciliation and Arbitration Service.”
- “The Employment Appeal Tribunal.”
- “The Employment Service Agency.”
- “The Training Services Agency.”
- (3) In Part III of Schedule 1 (other disqualifying offices), insert the following entry at the appropriate place in alphabetical order:—
- “Certification Officer or assistant certification officer appointed under section 7 of the Employment Protection Act 1975.”

Social Security Pensions Act 1975 (c. 60)

- 17 After section 31(8) of the Social Security Pensions Act 1975 there shall be inserted the following subsection:—

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“(9) A trade union shall be treated as recognised for the purpose of this section not only if it is recognised for the purpose of collective bargaining, but also if the Advisory Conciliation and Arbitration Service has made a recommendation for recognition under the Employment Protection Act 1975 and that recommendation is operative within the meaning of section 15 of that Act.”.

Sex Discrimination Act 1975 (c. 65)

- 18 (1) The Sex Discrimination Act 1975 shall be amended in accordance with the following provisions of this paragraph.
- (2) In section 65(2), for the words " amount for the time being specified in paragraph 20(1)(b)" substitute the words " limit for the time being imposed by paragraph 20 ".
- (3) In the Equal Pay Act 1970 as set out in Part II of Schedule 1 to the Sex Discrimination Act 1975 there shall be made the same amendments as are made to the former Act by paragraph 13 of this Part of this Schedule.

SCHEDULE 17

Section 125.

TRANSITIONAL PROVISIONS

- 1 Subject to any express provision made in any of the following paragraphs of this Schedule, in so far as anything done or treated as done under any enactment replaced or amended by any provision of this Act, could have been done under that provision or, as the case may be, that enactment as amended, then it shall on the commencement of that provision have effect as if done under that provision or, as the case may be, that enactment as so amended.
- 2 Where any action has been taken by a conciliation officer under paragraph 26(2) to (5) of Schedule 1 to the 1974 Act before the commencement of section 2 above, that action shall on the commencement of that section be treated as if it had been taken by a conciliation officer appointed under that section.
- 3 Any matter which immediately before the commencement of section 10(2) above stood referred to the Industrial Arbitration Board under section 2(2) of the Industrial Courts Act 1919 or section 13 of the National Health Service (Amendment) Act 1949 shall be treated as if it had been referred to the Committee by the Service under section 3(1) above.
- 4 (1) The Code of Practice in effect under Part I of Schedule 1 to the 1974 Act immediately before the repeal of that Part by this Act shall remain in effect and shall be taken into account in industrial tribunal proceedings in accordance with paragraph 3 of that Schedule, notwithstanding that repeal, until it is superseded in accordance with sub-paragraph (2) below by one or more Codes of Practice issued by the Service under section 6 above.
- (2) If on issuing any Code of Practice under section 6 above the Service is of the opinion that the code of practice continued in effect by sub-paragraph (1) above, or any part of that code, should cease to have effect by reason of being superseded by the provisions of the Code of Practice under section 6 above, the Service shall state in the new Code of Practice that the old code, or a specified part is so superseded and that old code, or

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part, shall cease to have effect on the date on which the new Code comes into effect in pursuance of an order by the Secretary of State under section 6(8) above.

- (3) Without prejudice to any other power to make transitional and other supplementary or incidental provisions in an order under the said section, such an order may contain such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with any provisions of the code of practice under Part I of Schedule 1 to the 1974 Act which ceases to have effect on the day appointed by that order.
- 5 (1) Anything done before the commencement of section 7 above by, to or in relation to the Chief Registrar of Friendly Societies or any assistant registrar under any of the Acts referred to in section 7(2) above, shall be treated on the commencement of that section as having been done by, to or in relation to the Certification Officer.
- (2) In particular, sub-paragraph (1) above applies to the following things done under any such Act, that is to say.—
- any complaint presented;
 - any application, determination, registration, order, entry, return, report, or requirement made ;
 - any certificate, approval, notice, direction or exemption given.
- 6 Anything done before the commencement of section 10(2) above by, to or in relation to the Industrial Arbitration Board under any enactment in which by virtue of that subsection references to the Industrial Arbitration Board (whether by that or any other name) are to be construed as references to the Central Arbitration Committee, shall be treated after the commencement of that subsection as if they had been done by, to or in relation to the Committee.
- 7 (1) Sections 29(4), 33, 34, 51 and 71 to 80 above and the provisions of Part III of Schedule 16 to this Act so far as they amend Schedule 1 to the 1974 Act as respects the law relating to unfair dismissal, shall apply to a dismissal where the effective date of termination in relation to that dismissal falls on or after the commencement of the relevant provision.
- (2) The provisions of paragraphs 17(2) and (3) and 19 of Schedule 1 to the 1974 Act shall, notwithstanding the repeal of those provisions by this Act, continue to apply to dismissals where the effective date of termination falls before the commencement of sections 71 to 76 above.
- (3) Where the notice required to be given by an employer to terminate a contract of employment by section 1(1) of the Contracts of Employment Act 1972 (minimum period of notice) would, if duly given when notice of termination was given by the employer, or (where no notice was given) when the contract of employment was terminated by the employer, expire on a date later than the effective date of termination as defined by paragraph 5(5) of Schedule 1 to the 1974 Act, that later date shall be treated as the effective date of termination—
- (a) for the purposes of sub-paragraph (1) above as it applies to sections 34 and 71 to 80 above, and the provisions of Part III of Schedule 16 referred to in that sub-paragraph ; and
 - (b) for the purposes of sub-paragraph (2) above.
- 8 The provisions of sections 64 and 65 above shall apply in relation to an employer who becomes insolvent (within the meaning of those sections) after the commencement of those sections, and shall in such a case apply to any

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- debts mentioned in section 64 above and to any unpaid relevant contribution (within the meaning of section 65 above), whether falling due before or after the commencement of those sections.
- 9 An appeal arising out of any proceedings before or any decision of an industrial tribunal under any of the Acts referred to in section 88(1) above which immediately before the commencement of that section is pending in the High Court or the Court of Session shall be transferred by virtue of this paragraph on the commencement of that section to the Employment Appeal Tribunal.
- 10 An appeal arising out of any proceedings before or any decision of the Chief Registrar of Friendly Societies or any assistant registrar under any of the enactments referred to in section 88(2) or 88(3)(a) above which immediately before the commencement of that section is pending in the High Court or the Court of Session shall be transferred by virtue of this paragraph on the commencement of that section to the Employment Appeal Tribunal.
- 11 (1) An order under section 11 of the Wages Councils Act 1959 which is in force immediately before the commencement of Schedule 7 to this Act shall, notwithstanding that it was made by the Secretary of State, continue to have effect after the commencement of that Schedule as if it had been made by a wages council under that section as substituted by that Schedule and may be amended or revoked under that section accordingly.
- (2) Anything done with a view to the making of an order under the said section 11 immediately before the commencement of the said Schedule, that is to say, any proposals published and any notice published and representations made with respect thereto, shall notwithstanding that it was done with a view to an order being made by the Secretary of State, have effect after the commencement of that Schedule as if it had been done under that section as substituted by that Schedule.
- (3) A person who is, on the commencement of the said Schedule, a member or officer of a wages council or central co-ordinating committee shall be treated as if he had been appointed under Schedule 2 to the said Act of 1959, as substituted by that Schedule, and accordingly shall continue in office, and in particular, a member appointed to represent employers or workers shall be treated as if he had been appointed by a nominated employers' association or trade union, as the case may be.
- 12 An order under section 11 of the Wages Councils Act 1959, section 3 of the Agricultural Wages Act 1948 or section 3 of the Agricultural Wages (Scotland) Act 1949 (as substituted, in each case, by this Act) which may have effect as from a date earlier than the date of the order, shall not have effect from a date earlier than the commencement of the provision of this Act effecting that substitution.
- 13 (1) Any award made under section 8 of the Terms and Conditions of Employment Act 1959 which is in force immediately before the commencement of Schedule 11 to this Act shall continue to have effect after that commencement, notwithstanding the repeal of that Act, as if it had been made under the said Schedule and may be superseded or varied accordingly.
- (2) Any claim reported to the Secretary of State or referred to the Industrial Arbitration Board under the said section 8 which immediately before the commencement of the said Schedule was pending before the Board shall be treated on that commencement as if it had been reported to the Service or referred to the Committee under Part I of the said Schedule.

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- 14 Where any provision of this Act increases the penalty for an offence under any other enactment, that increase shall not have effect in relation to an offence committed before the commencement of the relevant provision.
- 15 The repeals effected by section 111 above—
- (a) in the case of subsection (1) of that section, shall not confer or affect any right to unemployment benefit in respect of any day before the commencement of that subsection, and
 - (b) in the case of subsection (2) of that section, shall not affect the manner in which any person's requirements or resources are to be ascertained in relation to any period beginning before the commencement of that subsection.
- 16 (1) Any provision of Part I of Schedule 16 to this Act so far as it amends the Redundancy Payments Act 1965 as respects entitlement to or the computation of a redundancy payment or to the reference of questions to industrial tribunals concerning such entitlement or computation, shall, subject to sub-paragraph (2) below, have effect in relation to dismissals and to lay-off or short-time where the relevant date falls after the commencement of the relevant provision.
- (2) Where the notice required to be given by an employer to terminate a contract of employment by section 1(1) of the Contracts of Employment Act 1972 (minimum period of notice) would, if duly given when notice of termination was given by the employer, or (where no notice was given) when the contract of employment was terminated by the employer expire on a date later than the relevant date as defined by section 3(9) of the said Act of 1965, that later date shall be treated as the relevant date for the purposes of sub-paragraph (1) above.
- 17 The provisions of this Act which affect the computation of an employee's period of continuous employment for the purposes of this Act or any other Act shall have effect in relation to any week or event, whether falling or occurring (wholly or partly) before or after the commencement of the relevant provision, where the computation falls to be made after the commencement of that provision.
- 18 Any enactment or document which refers, whether specifically or by means of a general description, to an enactment which is replaced or amended by any provision of this Act, shall, except so far as the context otherwise requires, be construed as referring or as including a reference, to that provision.
- 19 Nothing in this Schedule shall be construed as prejudicing section 38 of the Interpretation Act 1889 (effect of repeals).

SCHEDULE 18

Section 125.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
1896 c. 30.	The Conciliation Act 1896.	The whole Act.
2 & 3 Geo. 5. c. 30.	The Trade Union Act 1913.	In section 3(2), the words from " shall be binding " to " re-strainable by injunction, and " and the words " and "

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Chapter	Short Title	Extent of Repeal
1919 c. 69.	The Industrial Courts Act 1919.	interdict' shall be substituted for ' injunction ' ". Part I In section 4(1), the words "whether or not the dispute is reported to him under Part I of this Act". In section 7, the words " of the Industrial Arbitration Board and ". In section 9, the words " before the Industrial Arbitration Board, before an arbitrator or ". Sections 11 and 12.
1938 c. 44.	The Road Haulage Wages Act 1938.	Section 5(5).
1948 c. 67.	The Agricultural Wages Act 1948.	In section 12(5), the words from " and in any such civil proceedings " onwards. In Schedule 4, in paragraph 6, the words from the beginning to " holidays " .
1949 c. 30.	The Agricultural Wages (Scotland) Act 1949.	In section 12(4), the words from " and in any such civil proceedings " onwards. In Schedule 3, in paragraph 6, the words from the beginning to " holidays " .
1949 c. 93.	The National Health Service (Amendment) Act 1949.	Section 13.
1958 c. 51.	The Public Records Act 1958.	In Schedule 1, in Part II of the Table at the end of paragraph 3, the entries relating to the Employment Service Agency, the Manpower Services Commission and the Training Services Agency.
1959 c. 26.	The Terms and Conditions of Employment Act 1959.	The whole Act, so far as unrepealed.
1959 c. 69.	The Wages Councils Act 1959.	Section 9(1). In section 23, the words " a commission of inquiry " .

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Chapter	Short Title	Extent of Repeal
1960 c. 37.	The Payment of Wages Act 1960.	In section 24, the definitions of " wages regulation order" and " wages regulation proposals ". Schedule 4. Section 2(4) to (8). In section 4(2), the words from " and, at or before " to the end. In section 4(3), the words from " and, at or before " to the end. Section 7(3). The Schedule.
1962 c. 47.	The Education (Scotland) Act 1962.	In section 85, subsection (3) and in subsection (5) the word " (3) ". In section 123(2), in the proviso, the words from " and", where secondly occurring, to the end.
1964 c. 24.	The Trade Union (Amalgamations, etc.) Act 1964.	In section 7(1)(c), the words " or by any assistant registrar ". In section 9, the definitions of " assistant registrar " and " Registrar ".
1965 c. 3.	The Remuneration of Teachers Act 1965.	In section 3(3), the words from " and, where arbitrators " to the end. Section 6(d).
1965 c. 62.	The Redundancy Payments Act 1965.	In section 5(2) the words " (calculated in accordance with Schedule 2 to this Act)". Schedule 2. In Schedule 4, paragraphs 6 and 12. In Schedule 5, in paragraph 1 the words from " and paragraph 5" onwards; and
1966 c. 20.	The Supplementary Benefit Act 1966.	In section 10(2), in paragraph (a), the words " or

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Chapter	Short Title	Extent of Repeal
1967 c. 36.	The Remuneration of Teachers (Scotland) Act 1967.	financing " and the word " and" and paragraph (b). In section 3(3), the words from " and, where arbiters " to the end. Section 7(c).
1968 c. 73.	The Transport Act 1968.	Section 35(3)(b).
1970 c. 41.	The Equal Pay Act 1970.	Section 4(4).
1972 c. 11.	The Superannuation Act 1972.	In Schedule 1, the entries relating to the Manpower Services Commission, the Employment Service Agency and the Training Services Agency.
1973 c. 35.	The Employment Agencies Act 1973.	Section 2(4). In section 2(5), the words "under the subsequent provisions of this Act". Section 8. In section 9(4)(a), subparagraphs (ii) and (iii). In section 13(1), the definition of " licensing authority ".
1973 c. 38.	The Social Security Act 1973.	In Schedule 27, paragraph 54.
1973 c. 50.	The Employment and Training Act 1973.	Section 7. In section 13(1) in the definition of " employee " the words " except in Schedule 1 "; and in the definition of " employment " the words " except in section 7 and Schedule 1 ". Section 13(5). In section 15(3), the words " 5 " and " 13 ". In Schedule 1, in paragraph 10(1) the words from "and any " to the end, and paragraphs 10(2), 11, 12 and 16.

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Chapter	Short Title	Extent of Repeal
1974 c. 37.	The Health and Safety at Work etc. Act 1974.	<p>In Schedule 3, paragraphs 5 and 13.</p> <p>In section 1(2) the words " and agricultural health and safety regulations ".</p> <p>Section 2(5).</p> <p>In section 11, in subsection (1), the words " except as regards matters relating exclusively to agricultural operations"; and in subsection (2), the words " except as aforesaid ".</p> <p>In section 14(2), the words from " but shall not do so " to " agricultural operations ".</p> <p>In section 16(1), the words " and except as regards matters relating exclusively to agricultural operations ".</p> <p>In section 18, in subsection (3), the words " or agricultural health and safety regulations"; and in subsection (5), the words " the appropriate Agriculture Minister ".</p> <p>Sections 29, 30, 31 and 32.</p> <p>In section 33, in subsection (1)(c), the words " or agricultural health and safety regulations"; and in subsection (4)(a), the words " or the appropriate Agriculture Minister ".</p> <p>In section 43(3), the words " the Minister of Agriculture, Fisheries and Food ".</p> <p>In section 44(1), the words " agricultural licences and ".</p> <p>In section 47, in subsection (2), the words " or agricultural health and safety regulations"; in subsection (3), the words " or, as the case may be,</p>

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Chapter	Short Title	Extent of Repeal
		<p>agricultural health and safety regulations"; and in subsection (5), the words " or, as the case may be, agricultural health and safety regulations ".</p> <p>In section 49(3), the words " by the appropriate Minister ".</p> <p>Section 50(4) and (5).</p> <p>In section 53(1), the definitions of " agriculture ", " the Agriculture Ministers ", " agricultural health and safety regulations ", " agricultural licence ", " agricultural operation ", " the appropriate Agriculture Minister", " forestry ", " livestock " and " the relevant agricultural purposes "; and in the definition of "the relevant statutory provisions the words " and agricultural health and safety regulations ".</p> <p>Section 53(2) to (6).</p> <p>In section 84(1)(a), the words " or 30 ".</p> <p>Schedule 4.</p>
1974 c. 39.	The Consumer Credit Act 1974.	In section 16(3)(b) the words " or (c)".
1974 c. 52.	The Trade Union and Labour Relations Act 1974.	<p>In section 8(1), the words in brackets.</p> <p>Section 8(8).</p> <p>In section 8(10), the words from " and that the organisation " to the end.</p> <p>In section 30(1), the definition of " Registrar ".</p> <p>In Schedule 1, Part I; in paragraph 5(3), the words " obligatory " and " in writing "; paragraph 5(4); in paragraph 9(1), paragraphs (a), (e) and (f)</p>

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Chapter	Short Title	Extent of Repeal
1975 c. 14.	The Social Security Act 1975.	and in paragraph (b) the words " or a close relative "; paragraph 9(4); in paragraph 17(1), words from " or by a person " onwards; paragraphs 17(2) and (3), 19 and 26(1); in paragraph 26(3)(a) the words "his engagement"; and paragraph 29. In Schedule 3, paragraphs 2(6), 3, 8, 9(4), (6) and (7), 10(4), and (6) and 15.
1975 c. 18.	The Social Security (Consequential Provisions) Act 1975.	In section 19(1), in paragraph (a), the words " or financing " and the word " and", and paragraph (b).
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 2, in paragraph 19 the words " 17(3) and (4A) and ", and paragraph 20. In Part II of Schedule 1, the entry relating to the Industrial Arbitration Board. In Part III of Schedule 1, in the entry relating to members of Wages Councils and other persons appointed under the Wages Councils Act 1959, the words " or a member of a Commission of Inquiry appointed under paragraph 1(a) of Schedule 4 to that Act".
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the Industrial Arbitration Board. In Part III of Schedule 1, in the entry relating to members of Wages Councils and other persons appointed under the Wages Councils Act 1959, the words "or a member of a Commission of Inquiry appointed under paragraph 1(a) of Schedule 4 to that Act".

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Chapter	Short Title	Extent of Repeal
1975 c. 65.	The Sex Discrimination Act 1975.	In section 82(1), the definition of "conciliation officer". In Schedule 5, paragraph 4.