

## SCHEDULES

### SCHEDULE 6

Section 32(3).

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### *Members and officers of wages councils*

- 1 Any appointment of a member or officer of a wages council made under any provision of Schedule 2 to the Wages Councils Act 1979 (referred to in this Schedule as "the 1979 Act") and in force immediately before the commencement of Part II of this Act shall continue in force as if made under the corresponding provision of Schedule 2 to this Act.

##### *Enforcement officers appointed by Secretary of State*

- 2 Any appointment of an officer made under section 22 of the 1979 Act and in force immediately before the commencement of Part II of this Act shall continue in force as if made under section 20 of this Act.

##### *Anticipatory exercise of powers relating to making of orders*

- 3 Without prejudice to section 13 of the Interpretation Act 1978 (anticipatory exercise of powers), any of the steps required by paragraph 1 of Schedule 3 to this Act to be taken before the making of an order under section 14 of this Act may be taken by a wages council (within the meaning of the 1979 Act) at any time before the commencement of Part II of this Act, as if Part II were then in force in relation to that council.

##### *Failure to pay minimum remuneration occurring before commencement of Part II*

- 4 (1) Where at any time during the period of two years ending with the date of an offence under section 16(2) of this Act an order under section 14 of the 1979 Act applied to the worker in relation to whom the offence was committed, or to any other worker employed by that worker's employer, section 16 of this Act shall have effect in relation to any such time as if—
- (a) in subsections (3) and (6), any reference to any other failure on the part of the employer to pay an amount of remuneration equal to, or exceeding, the statutory minimum remuneration provided for a worker by an order under section 14 of this Act were a reference to any failure on the part of the employer to pay an amount of remuneration equal to, or exceeding, the remuneration for the time being fixed in relation to a worker by an order under section 14 of the 1979 Act or by a permit under section 16(1) of that Act;
  - (b) in subsection (4), the reference to the statutory minimum remuneration so provided were a reference to the remuneration so fixed ; and
  - (c) subsection (5) were omitted.

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- (2) For the purposes of subsections (3) and (4) of section 16 of this Act, as they have effect in accordance with sub-paragraph (1), the following matters, namely—
- (a) the question whether an employer has failed to pay an amount of remuneration equal to, or exceeding, that fixed by any such order or permit under the 1979 Act as is mentioned in that sub-paragraph, and
  - (b) the amount referred to in subsection (4)(b).
- shall be determined in accordance with sections 17 and 18 of the 1979 Act, and not in accordance with sections 17 and 18 of this Act.

*General saving for accrued rights and related provisions of 1979 Act*

- 5 (1) The repeal of the 1979 Act by this Act shall not affect
- (a) any right of a worker arising out of the payment to him of an amount of remuneration less than that fixed by any such order or permit under the 1979 Act as is mentioned in paragraph 4(1) and accruing before the commencement of Part II of this Act, or
  - (b) any liability of an employer or other person in respect of any offence under that Act committed before that commencement,
- and, subject to sub-paragraph (3), the provisions of that Act relating to the enforcement of any such right or to any such offence shall continue to have effect as if this Act had not been passed.
- (2) Where at any time after that commencement any order made under section 14 of the 1979 Act continues in force by virtue of section 24(2) of this Act, then, notwithstanding the repeal of that Act by this Act—
- (a) that Act, and
  - (b) anything having effect under that Act in relation to the order,
- shall (subject to sub-paragraph (3)) continue to have effect in relation to the order, as for the time being in force in accordance with section 24(4) and (5), as if that repeal had not come into force.
- (3) Where the 1979 Act continues to have effect in accordance with sub-paragraph (1) or (2) it shall, in relation to any time after the commencement of Part II of this Act, have effect as if references to an officer acting for the purposes of Parts III and IV of that Act were references to an officer acting for the purposes of Part II of this Act.
- (4) Nothing in section 24(5) of this Act, or in any order made under section 24(4), shall affect—
- (a) any such right of a worker as is mentioned in sub-paragraph (1), or
  - (b) any right of a worker to any annual holidays or to any holiday remuneration in respect of those holidays,
- which accrued before the commencement of section 24(5) or (as the case may be) before the commencement of any such order.

*Power to preserve accrued rights under wages orders*

- 6 (1) In the case of any provision contained in an order under section 14 of the 1979 Act and ceasing to have effect (whether wholly or in part) at any time in accordance with section 24 of this Act, the Secretary of State may by order provide, for the purpose of, or in connection with, preserving the effect of rights accruing under that provision

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before that time, for that provision to continue in force as from that time subject to such modifications and transitional provisions as may be specified in the order.

- (2) Without prejudice to the generality of sub-paragraph (1), an order under this paragraph may make provision in connection with preserving the effect of rights to which paragraph 5(4)(b) above applies.
- (3) A provision contained in an order under this paragraph may be made with retrospective effect as from the date on which this Act is passed or any later date.
- (4) Any order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Exemption orders*

- 7 Paragraph 7 of Schedule 4 shall not affect the operation of section 18 of the Employment Protection (Consolidation) Act 1978 in relation to any such order as is referred to in paragraph 5(2) above.

#### *References to trade boards*

- 8 Any reference to a trade board in any enactment or document made before 28th March 1945 (the date of the passing of the Wages Councils Act 1945), other than an enactment repealed by that Act, shall be construed as including a reference to a wages council within the meaning of Part II of this Act.

#### *Redundancy rebates*

- 9 (1) In subsection (1) of section 104 of the Employment Protection (Consolidation) Act 1978, as substituted by section 27 of this Act, the requirement that a payment falling within paragraph (a) or (b) of that subsection should be a qualifying payment within the meaning of section 104A of that Act shall not apply to—
- (a) any payment falling within either of those paragraphs in respect of which a claim for a redundancy rebate has been made in accordance with regulations under section 104(5) before the commencement of section 27 of this Act, or
  - (b) any other payment so falling in relation to which the relevant date (as defined in sub-paragraph (2)) falls before that commencement.
- (2) In sub-paragraph (1)(b) " the relevant date "—
- (a) in the case of a payment falling within subsection (1)(a) of section 104, means the date which for the purposes of section 81(4) of that Act is the relevant date in relation to that payment by virtue of any provision of section 90 of that Act, and
  - (b) in the case of a payment falling within subsection (1)(b) of section 104, means the date on which the termination of the employee's contract of employment is treated as having taken effect for the purposes of the agreement referred to in that provision.

#### *Payments equivalent to redundancy rebates*

- 10 (1) Section 28 of this Act shall not affect the operation of provisions of section 111 of the Employment Protection (Consolidation) Act 1978 for purposes other than those of the making by the Secretary of State of payments under section 111(2).

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- (2) The repeals made by this Act shall not affect the operation of section 113 of that Act in relation to any termination of employment occurring before the commencement of section 28 of this Act.