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STATUTORY INSTRUMENTS

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1977 No. 2151 (N.I. 22)

NORTHERN IRELAND

**The Agricultural Wages (Regulation)  
(Northern Ireland) Order 1977**

*Laid before Parliament in draft*

*Made*

21st December 1977

*Coming into Operation*

4th January 1978

At the Court at Buckingham Palace, the 21st day of December 1977

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order and it is hereby ordered, as follows:—

*Title and commencement*

1. This Order may be cited as the Agricultural Wages (Regulation) (Northern Ireland) Order 1977 and shall come into operation on the fourteenth day after the day on which it is made.

*Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b), except section 38, shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, market gardens and nursery grounds, the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, the scutching of flax and tow and any process preparatory to or connected with the scutching of flax or tow;

“the Board” means the Agricultural Wages Board for Northern Ireland;

“the Department” means the Department of Agriculture;

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(a) 1974 c. 28.

(b) 1954 c. 33 (N.I.).

“employment” means employment under a contract of service or apprenticeship;

“holiday remuneration” has the meaning assigned to it by Article 8 (5);

“prescribed” means prescribed by regulations made under this Order;

“regulations” means regulations made by the Department subject to negative resolution;

“special class of workers” means, in relation to an order or resolution fixing, varying or cancelling a rate of wages, such workers as are treated in the order or resolution as constituting a special class;

“statutory provision” has the meaning assigned to it by section 1 (f) of the Interpretation Act (Northern Ireland) 1954.

(3) For the purposes of section 42 (2) of the Northern Ireland Constitution Act 1973 (a) (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

#### *Agricultural Wages Board*

3.—(1) There shall continue to be an Agricultural Wages Board for Northern Ireland.

(2) The Board shall have such functions as are conferred on it under the succeeding provisions of this Order.

(3) Schedule 1 shall have effect with respect to the Board.

#### *Minimum rates of wages*

4.—(1) Subject to the provisions of this Order, the Board shall fix minimum rates of wages for workers employed in agriculture for time work, and may also, if and so far as it thinks it necessary or expedient, fix minimum rates of wages for workers employed in agriculture for piece work.

(2) Any such minimum rates may be fixed by the Board so as to apply universally to all workers employed in agriculture, or to any special class of workers so employed, or to any special area, or to any special class in a special area, subject in each case to any exceptions which may be made by the Board for employment of any special character, and 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 overtime.

(3) Where the Board fixes minimum rates in pursuance of this Article, it shall determine the benefits or advantages (not being benefits or advantages prohibited by law) which may be reckoned as payment of wages in lieu of payment in cash, the extent to which they may be so reckoned, and, subject to regulations the value at which such benefits or advantages are to be so reckoned.

(4) Where the Board in fixing a minimum rate provides for a differential rate in the case of overtime, it shall determine what employment is to be treated as overtime employment.

(5) The provisions of this Order with respect to fixing, cancelling or varying a minimum rate shall apply to any determination under paragraph (3) or (4) in like manner as those provisions apply to a minimum rate.

(6) In fixing a minimum rate the Board shall have regard to the economic position of agriculture in the area to which the minimum rate is to be applied,

and, shall, so far as practicable, secure for able-bodied men such wages as in the opinion of the Board are adequate to promote efficiency and to enable a man in an ordinary case to maintain himself and his family in accordance with such standard of comfort as may be reasonable in relation to the nature of his occupation.

(7) The Board may, if it thinks it expedient, cancel or vary any minimum rate fixed under this Order.

(8) Before fixing, cancelling or varying any minimum rate the Board shall give such notice as may be prescribed of the rate which it proposes to fix, or of its proposal to cancel the rate, or of the proposed variation of the rate, as the case may be, and of the manner in which and the time within which objections to the proposal may be lodged not being less than fourteen days from the date of the notice, and the Board shall consider any objections to the proposal which may be lodged within the time mentioned in the notice.

(9) Where the proposal is modified in consequence of any objection lodged under paragraph (8), notice of the modified proposal need not be given except where in the opinion of the Board the proposal has been altered so materially that a fresh notice ought to be given.

(10) Where the Board fixes any minimum rate of wages, or cancels or varies any such rate, it shall make such order as may be necessary for the purpose of carrying out its decision, and shall, as soon as may be after it has made an order under this paragraph, give notice to the making of the order and the contents thereof in the prescribed manner.

(11) Subject to paragraph (12), any such minimum rate or the cancellation or variation thereof shall become effective as from the date specified in that behalf in the order.

(12) The date to be specified in an order under paragraph (11) shall be a date subsequent to the date of the order, and where, as respects any employer who pays wages at intervals not exceeding seven days, the date so specified does not correspond with the beginning of the period for which wages are paid by that employer, the rate, or the cancellation or variation thereof, shall become effective as from the beginning of the next such period following the date so specified.

#### *Sick pay*

5.—(1) The minimum rates of wages for workers employed in agriculture which the Board has power to fix under Article 4 (1) may include minimum rates of wages for periods when a worker so employed is absent in consequence of sickness or injury, and may include them notwithstanding that under the contract of employment no remuneration is payable in respect of any such period.

(2) An order of the Board which fixes minimum rates of wages for periods when a worker is absent in consequence of sickness or injury—

(a) may treat a period of sickness or injury as being during the currency of employment notwithstanding that the contract of employment has terminated, but not where the contract of employment is terminated by notice given before the commencement of the sickness or the occurrence of the injury;

(b) may in any way limit the period or periods for which a minimum rate of wages is so fixed, and in particular may relate the period or periods to

the duration of the period for which the worker has worked for the employer;

- (c) may make the right to the minimum rate of wages depend on compliance by the worker with any conditions, including in particular conditions as to the production of a medical certificate or other evidence of incapacity for work due to sickness or injury;
- (d) may provide for the times at which, and conditions subject to which, the right to receive wages at the minimum rate is to accrue, and the wages are to become payable;
- (e) may provide for account to be taken, in arriving at the minimum rate of wages, of any benefits payable under the Social Security (Northern Ireland) Act 1975 (a) or Part III of the Social Security Pensions (Northern Ireland) Order 1975 (b).

(3) Paragraph (1) shall not alter the construction of any order made by the Board before the commencement of section 2A of the Agricultural Wages (Regulation) Act (Northern Ireland) 1939 (c).

*Permits exempting, in certain cases, payment of minimum rate*

6.—(1) If, on an application in that behalf, the Board is satisfied that any worker employed, or desiring to be employed, on time work to which a minimum rate fixed under this Order is applicable is so affected by any physical injury or mental deficiency, or any infirmity due to age or to any other cause, that he is incapable of earning that minimum rate then the Board shall grant to the worker a permit exempting, as from the date of the application or from any later date specified in the permit, the employment of the worker from the provisions of this Order requiring wages to be paid at not less than the minimum rate, subject to such conditions as may be specified in the permit, including, if the Board thinks fit, a condition as to the wages to be paid to the worker.

(2) While a permit under paragraph (1) has effect an employer shall not be liable to any legal proceedings under this Order for paying wages to the worker at a rate less than the minimum rate, if the conditions specified in the permit are complied with.

(3) If an application for a permit under paragraph (1) is not disposed of within twenty-one days after the day on which it is received, then the employer of the worker to whom the application relates shall not be liable to any legal proceedings under this Order for paying wages to the worker at a rate less than the minimum rate during the interval between the expiration of the said period and the date on which the application is ultimately disposed of.

*Complaints as to inadequate payment for piece work where no minimum piece rate has been fixed*

7.—(1) Any worker employed in agriculture on piece work for which no minimum piece rate has been fixed, or any person authorised by such a worker, may complain to the Board that the piece rate of wages paid to the worker for that work is such a rate as would yield in the circumstances of the case to an ordinary worker a less amount of wages than the minimum rate for time work applicable in the case of that worker.

(2) The Board, on the receipt of a complaint under paragraph (1) and after giving to the employer an opportunity of making such representations as he thinks desirable, may direct that the employer shall pay to the worker such

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(a) 1975 c. 15.

(b) S.I. 1975/1503 (N.I. 15).

(c) 1939 c. 25 (N.I.).

additional sum by way of wages, for any piece work done by the worker at that piece rate at any time within fourteen days before the date of complaint or at any time after the date of complaint and before the decision of the Board thereon, as in its opinion represents the difference between the amount which would have been paid if the work had been done by an ordinary worker at the minimum rate for time work and the amount actually received by the worker by whom or on whose behalf the complaint is made.

(3) Any sum directed by the Board under paragraph (2) to be paid shall be a debt recoverable summarily by or on behalf of the worker from the employer.

#### *Holidays and holiday remuneration*

8.—(1) Workers employed in agriculture shall be entitled to be allowed by their employers holidays of such duration as may be specified in a direction of the Board.

(2) A direction under this Article that a worker shall be entitled to be allowed a holiday of any duration—

(a) shall not be made unless the minimum rate of wages to be paid in respect of the period of the holiday has been or is being fixed under this Order for the worker;

(b) where the holiday is specified otherwise than in pursuance of paragraph (3) and otherwise than by reference to a particular day or days, shall provide for the duration of the holiday's being related to the duration (as defined by order of the Board) 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 to sub-paragraphs (a) and (b), may make provision as to the times at which or the periods within which, and the circumstances in which, the holiday shall be allowed.

(3) In the exercise of its powers under this Article the Board shall—

(a) so far as is reasonably practicable, secure a weekly half-holiday for workers;

(b) ensure that the entitlement of a worker to holidays by virtue of a direction of the Board under this Article is on the whole not less favourable than his entitlement to holidays would have been if Part I of the Schedule to the Agricultural Wages (Regulation) Act (Northern Ireland) 1939 and the Agricultural Workers' Holidays Act (Northern Ireland) 1956 (a) had not been repealed by the Agricultural (Miscellaneous Provisions) Act (Northern Ireland) 1967 (b).

(4) If any employer who is by virtue of this Article required to allow to a worker a holiday of any duration fails to allow to him a holiday of that duration, the employer shall be guilty of an offence and shall be liable on summary conviction in respect of each such offence to a fine not exceeding £20.

(5) Any worker who is, by virtue of this Article, entitled to be allowed a holiday shall receive remuneration in respect of the period of that holiday (in this Order referred to as "holiday remuneration"), and the powers of the Board with respect to the fixing of minimum rates of wages shall, without prejudice to any other power exercisable by the Board in that behalf, include power—

(a) to fix separate minimum rates of wages by way of holiday remuneration;

(b) to make provision—

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(a) 1956 c. 3 (N.I.).

(b) 1967 c. 15 (N.I.).

- (i) with respect to the times at which, and the conditions subject to which, holiday remuneration shall accrue and shall become payable; and
- (ii) for securing that any holiday remuneration which has accrued to a worker during his employment by an 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.

(6) Without prejudice to Article 14, the provisions of this Order and of any regulations made thereunder relating to the fixing, cancelling and varying of minimum rates of wages and to the making and enforcement of orders for those purposes shall apply in relation to holidays as well as to holiday remuneration as they apply in relation to such rates.

#### *Penalties and legal proceedings*

9.—(1) Where any minimum rate of wages has been made effective by an order of the Board under this Order, any person who employs a worker in agriculture shall, in cases to which the minimum rate is applicable, pay wages to the worker at a rate not less than the minimum rate and, if he fails to do so, shall be guilty of an offence and shall be liable on summary conviction in respect of each offence to a fine not exceeding £20 and to a fine not exceeding £1 for each day on which the offence is continued after conviction.

(2) In any proceedings against an employer under this Article the court shall, whether or not there is a conviction or a fine is imposed order the employer to pay to the worker such sum as may be found by the court to represent the difference between the amount which ought, at the minimum rate applicable to have been paid by the employer to the worker during the period of six months immediately preceding the date on which the information was laid or the complaint was served and the amount actually paid by the employer to the worker during that period.

(3) Where an employer has been convicted under this Article for failing to pay wages to any worker at not less than the minimum rate applicable, then, if notice of intention so to do has been served with the summons, warrant or complaint, evidence may be given of any failure on the part of the employer to pay wages to that worker, at not less than the minimum rate applicable to him, at any time during the eighteen months immediately preceding the period of six months mentioned in paragraph (2); and on proof of the failure the court may order the employer to pay to the worker such sum as is found by the court to represent the difference between the amount which ought to have been paid to the worker by way of wages at the minimum rate applicable during those eighteen months and the amount actually so paid.

(4) Where an offence for which an employer is under this Article liable to a fine has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer, and either together with the employer, or before or after the employer is proceeded against, and shall be liable on conviction to the same punishment as that to which the employer is liable.

(5) It shall be a defence for an employer who is charged with an offence under this Article to prove that he has used due diligence to secure compliance with the provisions of this Order, and that the offence was in fact committed by his agent or some other person without his knowledge, consent or connivance.

(6) Notwithstanding any enactment prescribing the time within which proceedings may be brought before a court of summary jurisdiction, proceedings for an offence under this Article may be brought within twelve months from the date of the commission of the alleged offence.

(7) Where it appears to the Department that a sum is due from an employer to a worker on account of the payment of wages to him at less than the minimum rate applicable, or by reason of any direction given by the Board for the payment of an additional sum by way of wages for piece work, the Department may institute, on behalf or in the name of the worker, civil proceedings before any court of competent jurisdiction for the recovery of the same sum; so however that in any such civil proceedings instituted by the Department the court shall have the same power to make an order for the payment of expenses by the Department as if it were a party to the proceedings.

(8) Where a permit granted in respect of a worker under Article 6 contains a condition for the payment of wages to the worker at a rate not less than the rate specified in the permit, the amount of wages which may be recovered from an employer of the worker pursuant to paragraph (2), (3) or (7) of this Article shall, as respects any period during which the permit had effect, be calculated on the basis of the rate so specified, instead of on the basis of the minimum rate.

(9) The powers given by this Article for the recovery of sums due from an employer to a worker shall not be in derogation of any right of the worker to recover such sums by any other proceedings.

(10) Any agreement for the payment of wages in contravention of this Order, or for abstaining from exercising any right of enforcing the payment of wages in accordance with this Order, shall be void.

(11) Subject to any determination under this Order of the benefits or advantages which may be reckoned as payment of wages in lieu of cash and the value at which they are to be reckoned, and to any limitation or prohibition under this Order of the reckoning of benefits or advantages as payment of wages in lieu of cash, the court shall, in any proceedings under this Order, reckon as a payment of wages such amount as represents the value of any benefits or advantages (not being benefits or advantages prohibited by law) received by a worker under the terms of his employment.

(12) Every person who employs a worker in agriculture, in any case to which a minimum rate of wages is applicable, shall keep records showing that the provisions of this Order are being complied with as respects that worker, and if such an employer fails to do so he shall be guilty of an offence and shall be liable on summary conviction in respect of each offence to a fine not exceeding £2 and to a fine not exceeding £1 for each day on which the offence is continued after conviction.

### *Regulations*

10. Regulations may—

- (a) prescribe the general principles on which the Board shall determine the value of the benefits or advantages (not being benefits or advantages prohibited by law) which may be reckoned as payment of wages in lieu of cash;
- (b) prescribe the procedure to be observed on or in connection with applications or complaints to the Board or any committee of the Board;
- (c) prescribe the notice to be given of any matter under this Order with a view to bringing, so far as practicable, the matter of which notice is to be given to the knowledge of persons affected; and

- (d) prescribe anything which is to be prescribed, and provide for any matter in regard to which regulations may be made, under this Order.

#### *Appointment of officers*

11.—(1) The Department may appoint, subject to the consent of the Department of the Civil Service as to number, such officers as the Department thinks necessary for the purpose of investigating complaints and otherwise securing the proper observance of this Order, and the officers shall receive such salaries or remuneration as the Department may, with the consent of the Department of the Civil Service, determine.

(2) Every officer appointed under paragraph (1) may—

- (a) after giving reasonable notice, require the production of, and inspect and take copies of, wages sheets or other records of wages paid to workers employed in agriculture;
- (b) at all reasonable times and, in the case of a dwelling-house, after giving reasonable notice, enter any premises or place for the purpose of such inspection or for the enforcement of this Order; and
- (c) require any such worker, or the employer of any such worker or any agent of the employer, to give any information which it is in that person's power to give with respect to the employment of the worker or the wages paid to the worker.

(3) If any person—

- (a) hinders or molests any officer acting in the exercise of his powers under this Article; or
- (b) refuses to produce any document or give any information which any such officer lawfully requires him to produce or give; or
- (c) produces or causes to be produced, or knowingly allows to be produced, any wages sheet, record or other document which he knows to be false in any material particular to any such officer; or
- (d) furnishes any information which he knows to be false to any such officer;

that person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20 or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

(4) Every officer appointed under paragraph (1) shall be furnished by the Department with a certificate of his employment, and when acting under or exercising any power conferred upon him by this Order shall, if so required, produce the said certificate to any person or persons affected.

#### *Report*

12. The Department shall not less than once in every two years make a report to the Assembly of the proceedings of the Department and the Board under this Order, and for that purpose the Board shall, at such times as may be directed by the Department, send to the Department a report of the Board's proceedings under this Order during such period or periods as may be so directed.

#### *Saving of agreements and customs*

13. Nothing in this Order shall prejudice the operation of any agreement or custom for the payment of wages at a rate higher than the minimum rate fixed under this Order.



*Modifications in relation to sick pay, holidays and holiday remuneration*

14. The provisions of this Order specified in Schedule 2 shall, in their application to sick pay, holidays and holiday remuneration, have effect subject to the modifications respectively so specified.

*Amendment, repeals and transitional provision*

15.—(1) For sub-paragraph (b) of Article 8 (2) of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 (a) there shall be substituted the following sub-paragraph—

“(b) Article 4 of the Agricultural Wages (Regulation) (Northern Ireland) Order 1977.”.

(2) The statutory provisions set out in Schedule 3 are hereby repealed to the extent specified in column 3 of that Schedule.

(3) Any period of time which has run to any extent for the purposes of a statutory provision repealed by this Order shall be deemed to have run to that extent for the purposes of this Order.

*N. E. Leigh,*  
Clerk of the Privy Council.

SCHEDULES

SCHEDULE 1

Article 3 (3).

THE AGRICULTURAL WAGES BOARD FOR NORTHERN IRELAND

*Members*

1. The Board shall consist of—

- (a) three members appointed by the Head of the Department;
- (b) six members being representatives of employers in agriculture and appointed by the prescribed organisation or organisations representing those employers in such manner, and according to such method of distribution as between the several organisations (if more than one), as the Head of the Department may determine;
- (c) six members being representatives of workers in agriculture and appointed by the prescribed organisation or organisations representing those workers in such manner, and according to such method of distribution as between the several organisations (if more than one), as the Head of the Department may determine.

2. The Head of the Department may designate one of the members appointed under paragraph 1 (a) to be chairman of the Board.

3. The members of the Board shall hold office for such term and subject to such conditions as the Head of the Department may determine.

4. The Department shall pay to members of the Board such remuneration and expenses as the Department, with the approval of the Department of the Civil Service, may determine.

*Proceedings*

5. The Board may act notwithstanding a vacancy in its number.

6. Subject to the provisions of any regulations, the Board may regulate its own procedure.

7. The quorum for a meeting of the Board shall be six.

8. The Board may appoint committees consisting of members of the Board.

#### *Staff*

9. The Department may appoint a secretary for the Board who shall receive such salary or remuneration as the Department may, with the consent of the Department of the Civil Service, determine.

#### *Finance*

10. The Department shall pay to the Board such sums, up to an amount sanctioned by the Department of Finance, for enabling the Board to meet any expenses which may be incurred with the authority or approval of the Department, by the Board or any committee thereof in carrying this Order into effect.

#### *Evidence*

11. In any legal proceedings the production of a document purporting to be a copy of a resolution or order passed or made by the Board, and certified to be a true copy by the Chairman or secretary of the Board, shall be sufficient evidence of the resolution or order, and that any notices required to be given by this Order in relation to the resolution or order have been duly given, and no proof shall be required of the handwriting or official position of the person certifying the same.

### Article 14.

### SCHEDULE 2

#### MODIFICATION OF CERTAIN PROVISIONS IN THEIR APPLICATION TO SICK PAY, HOLIDAYS AND HOLIDAY REMUNERATION

1. Where the Board grants to any worker a permit under Article 6 (1) the provisions of this Order relating to sick pay, holidays and holiday remuneration which, but for the permit would be applicable to the worker shall apply to him except so far as the permit otherwise provides.

2. Where, under Article 5 (2) (a) a period of sickness or injury is treated, in circumstances such as are described in that sub-paragraph, as being during the currency of a worker's employment by any person, the worker shall, for the purposes of Article 9 (1), be deemed to be employed by that person throughout that period.

3. The provisions of Article 9 (1) shall have effect as if a failure to pay holiday remuneration at such times and subject to such conditions as are required in pursuance of this Order were a failure to pay wages at a rate not less than the minimum rate.

4. The provisions of Article 9 (4), (5) and (6) shall apply in the case of proceedings against an employer for failing to allow to a worker a holiday in accordance with this Order, and the provisions of Article 9 (10) shall have effect so as to make void any agreement as to holidays which is inconsistent with this Order and any agreement to abstain from exercising the right to holidays given by this Order.

5. Article 13 shall have effect with the addition of the following words, that is to say "or for the allowance of holidays with remuneration for a greater number of days than a worker is entitled to be allowed under this Order".

## REPEALS

Chapter or Number	Short Title	Extent of Repeal
2 & 3 Geo. 6 c. 25.	The Agricultural Wages (Regulation) Act (Northern Ireland) 1939.	The whole Act.
4 & 5 Geo. 6 c. 19.	The Agricultural Wages (Regulation) Act (Northern Ireland) 1940.	The whole Act.
1967 c. 15.	The Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1967.	Sections 3 to 6.
S.I. 1975/1038 (N.I. 8).	The Agriculture (Miscellaneous Provisions) (Northern Ireland) Order 1975.	Article 4.
S.I. 1975/1503 (N.I. 15).	The Social Security Pensions (Northern Ireland) Order 1975.	In Schedule 5, paragraph 2.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order consolidates the Agricultural Wages (Regulation) Acts (Northern Ireland) 1939 and 1940 and certain related enactments.