



Wages Act 1986

1986 CHAPTER 48

PART II

WAGES COUNCILS

Enforcement

19 **Obligation to keep records etc.**

- (1) The employer of any workers to whom an order under section 14 applies shall keep such records as are necessary to show—
 - (a) whether or not the provisions of this Part are being complied with in relation to the payment of remuneration to those workers, and
 - (b) the amount of any deductions or payments made in the case of those workers in respect of the provision of living accommodation by the employer;and the records shall be retained by the employer for a period of 3 years beginning with the date of the payments or deductions in question.
- (2) The employer of any such workers shall post in the prescribed manner such notices as may be prescribed for the purpose of informing the workers—
 - (a) of any order under section 14, or proposal under paragraph 1 of Schedule 3, that affects them; or
 - (b) of such other matters (if any) as may be prescribed.
- (3) Where any such workers are homeworkers, the employer shall notify them in the prescribed manner of the matters mentioned in subsection (2).
- (4) An employer who fails to comply with any of the requirements of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.

Status: Point in time view as at 01/02/1991.

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20 Officers.

- (1) The Secretary of State, with the approval of the Treasury as to numbers and salaries, may appoint officers to act for the purposes of this Part, and may, instead of or in addition to appointing any officers under this section, arrange with any government department that officers of that department shall act for those purposes.
- (2) When acting for the purposes of this Part any such officer shall, if so required, produce some duly authenticated document showing his authority so to act; and if it appears to any such officer that any person with whom he is dealing while so acting does not know that he is an officer acting for the purposes of this Part he shall identify himself as such to that person.
- (3) An officer acting for the purposes of this Part shall have power for the performance of his duties—
 - (a) to require the production of—
 - (i) wages sheets or other records of remuneration kept by an employer, or
 - (ii) records of payments made to homeworkers by persons giving out work, or
 - (iii) any other records such as are required by this Part to be kept by employers,
 and to inspect and examine those sheets or records and to copy any material part of them;
 - (b) to require any person giving out work and any homemaker to give any information which it is in his power to give with respect to the names and addresses of the persons to whom the work is given out or (as the case may be) of the persons from whom work is received by the homemaker, and with respect to the payments made or to be made for the work;
 - (c) where the officer has reasonable cause to believe that an order under section 14 applies to any employer, at all reasonable times to enter any premises at which that employer carries on his business (including any place used, in connection with that business, for giving out work to homeworkers, and any premises which the officer has reasonable cause to believe to be used by, or by arrangement with, the employer to provide living accommodation for workers);
 - (d) to inspect and copy any material part of any list of homeworkers kept by an employer or person giving out work to homeworkers;
 - (e) to examine (either alone or in the presence of any other person, as he thinks fit) with respect to any matters under this Part any person whom he has reasonable cause to believe to be or to have been—
 - (i) a worker to whom an order under section 14 applies or applied, or
 - (ii) the employer of any such person, or
 - (iii) a servant or agent of any such employer employed in the employer's business,
 and to require every such person to be so examined, and to sign a declaration of the truth of the matters in respect of which he is so examined;

but no person shall be required under paragraph (e) to give any information tending to incriminate that person or, if married, that person's spouse.
- (4) Where an officer acting for the purposes of this Part has reasonable cause to believe that an order under section 14 applies to an employer, he may, for the purpose of, or in connection with, the enforcement of that order, by notice in writing require the

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employer to furnish him with such information as may be specified or described in the notice; and any such notice—

- (a) may specify the way in which, and the time within which, it is to be complied with; and
 - (b) may be varied or revoked by a subsequent notice under this subsection.
- (5) In England or Wales, an officer acting for the purposes of this Part may institute proceedings for any offence under this Part and may, although not a barrister or solicitor, conduct any such proceedings.
- (6) An officer acting for the purposes of this Part and being authorised in that behalf by general or special directions of the Secretary of State may, if it appears to him that a sum is due from an employer to a worker on account of the payment to the worker of an amount of remuneration less than the statutory minimum remuneration provided for him by an order under section 14, institute on behalf of and in the name of the worker civil proceedings for the recovery of that sum; and in any such proceedings the court may make an order for costs (or, in Scotland, expenses) to be paid by the officer as if he were a party to the proceedings.
- (7) The power conferred by subsection (6) 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 civil proceedings.

21 Offences in connection with enforcement of Part II.

- (1) Any person who—
- (a) makes, or knowingly either causes or allows to be made, in a record required by this Part to be kept by employers any entry which he knows to be false in a material particular, or
 - (b) for purposes connected with the preceding provisions of this Part produces or furnishes, or knowingly either causes or allows to be produced or furnished, any wages sheet, record, list or information which he knows to be false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.

- (2) Any person who—
- (a) intentionally obstructs an officer acting for the purposes of this Part of this Act in the exercise of any power conferred by section 20, or
 - (b) fails to comply with any requirement of such an officer made in the exercise of any such power,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale; but it shall be a defence for a person charged under this subsection with failing to comply with a requirement to prove that it was not reasonably practicable to do so.

- (3) Any person who, in purported compliance with a requirement of a notice under section 20(4), knowingly or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.

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22 Application of Part II to superior employers: liability of employers and others in respect of offences.

- (1) Where—
 - (a) the immediate employer of a worker is himself in the employment of some other person; and
 - (b) the worker is employed on the premises of that other person,
 that other person shall be deemed for the purposes of this Part to be the employer of the worker jointly with the immediate employer.
- (2) Where the commission by any person of an offence under section 16(2) or 19(4) is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.
- (3) In any proceedings for an offence under section 16(2) or 19(4) it shall be a defence for the person charged to prove that he exercised all due diligence and took all reasonable precautions to secure that the provisions of this Part, and of any relevant regulations or order made under it, were complied with by himself and by any person under his control.

23 Offences by bodies corporate.

- (1) Where an offence under this Part which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

24 Transitory provisions relating to existing wages councils and wages orders.

- (1) As from the date of the passing of this Act—
 - (a) a wages council within the meaning of the ^{M1}Wages Councils Act 1979 shall not exercise any functions under that Act; and
 - (b) the following provisions of this section shall apply to any wages order in force on that date under section 14 of that Act (“an existing order”).
- (2) An existing order shall, subject to the following provisions of this section, continue in force until whichever is the later of the following times, namely—
 - (a) the end of the period of six months beginning with the date of the passing of this Act, and
 - (b) the end of the period of twelve months beginning with the date of the coming into force of the order,
 and shall so continue in force notwithstanding the repeal of that Act by section 12 of this Act.

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- (3) If, before the later of those times, there comes into force an order made under section 14 of this Act by the wages council that made the existing order, the existing order shall cease to have effect at that time.
- (4) The Secretary of State may by order—
 - (a) provide for all or any of the provisions of any existing order to cease to have effect;
 - (b) restrict the operation of all or any of the provisions of any such order by reference to any matters or circumstances whatever.
- (5) As from the date of the passing of this Act nothing in any existing order shall apply to workers under the age of 21.

Marginal Citations

M1 1979 c. 12.

25 Regulations and orders made by Secretary of State under Part II.

- (1) The Secretary of State may make regulations for prescribing anything which by this Part is authorised or required to be prescribed.
- (2) Any power to make an order or regulations conferred on the Secretary of State by this Part shall be exercisable by statutory instrument.
- (3) A statutory instrument containing—
 - (a) an order made by the Secretary of State under section 13 (other than an order to which subsection (4) below applies) or under section 24(4), or
 - (b) any regulations made by him under this Part,shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) No order to which this subsection applies shall be made by the Secretary of State unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (5) Subsection (4) applies to an order under section 13 which—
 - (a) abolishes a wages council, and
 - (b) does not direct that all or any of the workers previously within the scope of operation of that wages council shall be brought within the scope of operation of another wages council.
- (6) A draft of such an order which would, apart from the provisions of this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument shall proceed in that House as if it were not such an instrument.
- (7) Any power conferred by this Part to prescribe the manner in which anything is to be published shall include power to prescribe the date which is to be taken for the purposes of this Part as the date of publication.

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26 Interpretation of Part II.

(1) In this Part—

“employer”, in relation to a worker, means the person by whom the worker is (or, where the employment has ceased, was) employed;

“employers’ association” means any organisation representing employers and any association of such organisations or of employers and such organisations;

“employment”, in relation to a worker, means employment under his contract and “employed”, in relation to a worker, accordingly means employed under his contract;

“homeworker” means an individual who—

- (a) contracts with a person, for the purposes of that person’s business, for the execution of work to be done in a place not under the control or management of the person with whom he contracts, and
- (b) does not normally make use of the services of more than two individuals in the carrying out of contracts for the execution of work in relation to which statutory minimum remuneration is provided by any order under section 14;

“organisation”, in relation to workers, means a trade union and, in relation to employers, means an employers’ association;

“piece rate” means a rate where the amount of a worker’s remuneration is to be calculated by reference to the number of items of work executed either by him alone or by a number of workers of whom he is one, and “piece worker” means a worker whose contract provides for the remuneration payable to him in respect of work executed by him to be calculated only by reference to one or more such rates;

“prescribed” means prescribed by regulations made by the Secretary of State;

“time worker” means a worker other than a piece worker (whether the worker’s remuneration is determined by reference to the actual number of hours worked by him or not);

“wages council” (except where the context requires otherwise) means such a wages council as is mentioned in section 12(1)(a);

“week” means—

- (a) in relation to a worker whose remuneration is calculated weekly by a week ending with a day other than Saturday, a week ending with that other day; and
- (b) in relation to any other worker, a week ending with Saturday;

“worker” means (subject to subsection (2)) an individual who—

- (a) has entered into or works under (or, where the employment has ceased, worked under) one of the contracts referred to in section 8(2), or
- (b) whether or not he falls within paragraph (a) above, is a homeworker,

and any reference to a worker’s contract shall be construed as a reference to any such contract as is referred to in paragraph (a) above or, in the case of a homeworker, to the contract by virtue of which he is a homeworker.

(2) In this Part “worker” does not include an individual who is wholly employed otherwise than for the purposes of the business of the person employing him.

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- (3) Notwithstanding section 14(3)—
- (a) where a worker is employed partly for the purposes of his employer's business and partly not, nothing in any order under section 14 shall apply to the worker in his employment otherwise than for the purposes of that business, and
 - (b) where a worker is employed for the purposes of his employer's business both in an employment to which an order under section 14 applies and in one to which that order does not apply, nothing in that order shall apply to the worker in the second of those employments.
- (4) References in this Part to the statutory minimum remuneration provided for a worker by an order under section 14 shall—
- (a) in relation to a time worker, be construed in accordance with subsection (4) of that section, and
 - (b) in relation to a piece worker, be construed in accordance with section 15.

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