

## SCHEDULES

### SCHEDULE 2

#### AMENDMENTS RELATING TO REMUNERATION ETC OF AGRICULTURAL WORKERS

##### PART II

##### THE AGRICULTURAL WAGES (SCOTLAND) ACT 1949

##### *Section 5*

- 15 (1) Section 5 (permits to infirm and incapacitated persons) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “the last preceding section relating to payment of wages at not less than the minimum rate” there shall be substituted “subsection (1) of section 31 of the National Minimum Wage Act 1998 as it applies for the purposes of this Act (offence of refusing or wilfully neglecting to pay worker at applicable rate)”; and
  - (b) for “any legal proceedings under the last preceding section for failing” there shall be substituted “any legal proceedings under that subsection, as it so applies, for refusing or wilfully neglecting”.
- (3) After subsection (1) there shall be inserted—
- “(1A) Every permit under subsection (1) of this section (whenever granted) shall be deemed to contain a condition that the worker to whom it is granted must at any time be paid at a rate which—
- (a) in the case of an hourly rate, is not less than the national minimum wage in force at that time, or
  - (b) in the case of a rate other than an hourly rate, is such as to yield an amount of wages for each hour worked which is not less than the hourly amount of the national minimum wage in force at that time.
- (1B) The condition which a permit is deemed to contain by virtue of subsection (1A) of this section—
- (a) overrides any other condition which the permit contains as to payment of wages, to the extent that that other condition provides for payment of wages at any time at a lower rate; but
  - (b) is without prejudice to any other condition which the permit contains as to payment of wages, to the extent that that other condition provides for payment of wages at any time at a higher rate.”
- (4) In subsection (2)—
- (a) for “the preceding subsection” there shall be substituted “subsection (1) of this section”; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) for “any legal proceedings under the last preceding section for failing” there shall be substituted “any legal proceedings under section 31(1) of the National Minimum Wage Act 1998, as it applies for the purposes of this Act, for refusing or wilfully neglecting”.