



Agricultural Wages (Scotland) Act 1949

1949 CHAPTER 30

Wages and Holidays

3 Power of Scottish Agricultural Wages Board to fix rates of wages, and holidays.

(1) Subject to and in accordance with the provisions of this section, the Board shall have power, for each district for which an agricultural wages committee is established under this Act,—

- (a) to fix minimum rates of wages for workers employed in agriculture ; and
- (b) to direct that any such workers shall be entitled to be allowed by their employers holidays of such duration as may be specified in the direction.

(2) The powers of the Board with respect to the fixing of minimum rates of wages as aforesaid shall be powers—

- (a) to fix minimum rates for time work ;
- (b) to fix minimum rates for piece work ;
- (c) to fix minimum rates for time work, to apply in the case of workers employed in piece work, for the purpose of securing to such workers a minimum rate of remuneration on a time work basis ;
- (d) to fix separate minimum rates by way of pay in respect of holidays ;

and the exercise by the Board of their powers under paragraph (a) of this subsection shall be obligatory :

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.

(3) A direction under paragraph (b) of subsection (1) of this section that a worker shall be entitled to be allowed a holiday shall not be given 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, shall provide for the duration of the holidays 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, 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 ; and the power to fix separate minimum rates of wages by way of pay in respect of holidays shall include power to make provision with respect to the times at which, and the conditions subject to which, those wages shall accrue and shall become payable, and 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 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, and, without prejudice to the generality of the preceding words, a minimum time rate for piece work may be fixed so as to provide for a differential rate for work done in such circumstances that, if it were time work, it would be treated as overtime for the purposes of the minimum rate applicable thereto by virtue of paragraph (a) of subsection (1) of this section.

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) The Board may, if they think it expedient, cancel or vary a minimum rate fixed or a direction as to holidays given under this section.
- (6) The powers conferred on the Board by this section shall be exercised by order made in accordance with the provisions of the Third Schedule to this Act.
- (7) Nothing in this section shall be construed as preventing the Board fixing or varying a minimum rate of wages so as to secure that workers receive remuneration calculated by reference to periods during the currency of their employment.

4 Enforcement of wages and holidays orders.

- (1) Subject to the provisions of this Act, if an employer fails—
- (a) to pay to a worker to whom an order under the last preceding section applies wages at a rate not less than the minimum rate fixed by the order, or
 - (b) to pay to any such worker, in respect of a holiday, wages at the times and subject to the conditions specified in the order, or
 - (c) to allow to any such worker the holidays fixed by the order;

he shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds and, in the case of an offence consisting of a failure to pay wages in accordance with the order, to a fine not exceeding one pound for each day on which the offence is continued after conviction ; and in any proceedings against an employer under this subsection in respect of a failure to pay wages at a rate not less than the minimum rate, the court shall, whether there is a conviction or not, order the employer to pay in addition to the fine, if any, such sum to the worker 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 to the worker by way of wages during the period of six months immediately preceding the date on which the complaint was served, and the amount actually so paid to him.

- (2) Where proceedings are brought under the preceding subsection in respect of an offence consisting of a failure to pay wages to a worker at a rate not less than the minimum rate applicable, then, if notice of intention so to do has been served with the complaint—
 - (a) evidence may, on the employer's having been convicted of the offence, 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 the preceding subsection ; and
 - (b) 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, at the minimum rate applicable, to have been paid to the worker by way of wages during the said eighteen months and the amount actually so paid to him.
- (3) In any proceedings against a person under this section it shall lie with him to prove that he has paid wages at not less than the minimum rate or has allowed the holidays fixed by the order, as the case may be.
- (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 of the worker to recover such sums by any other proceedings.

5 Permits to infirm and incapacitated persons.

- (1) If, on an application in that behalf, an agricultural wages committee are satisfied that a worker employed or desiring to be employed in their district on time work to which a minimum rate fixed under this Act is applicable, or on piece work to which a minimum time rate so fixed 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, the committee shall grant to him a permit exempting, as from the date of the application or from a later date specified in the permit, his employment from the provisions of the last preceding section relating to payment of wages at not less than the minimum rate, subject to such conditions as may be specified in the permit, including, if the committee think fit, a condition as to the wages to be paid to the worker, and, while the permit has effect, an employer shall not be liable to any legal proceedings under the last preceding section for failing to pay to the worker wages at a rate less than the minimum rate if those conditions are complied with.
- (2) If an application for a permit under the preceding subsection 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 the last preceding section for failing to pay to the worker wages at a rate not 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.
- (3) Where an agricultural wages committee have granted a permit under subsection (1) of this section and at any time thereafter it appears to the committee, whether on an application under this subsection or otherwise, that the worker to whom the permit relates is no longer so affected by any such incapacity as is mentioned in the said subsection (1) as to be incapable of earning the minimum rate in question, the committee shall revoke the permit.

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

- (4) Where an agricultural wages committee have granted such a permit as aforesaid and it appears to the committee, whether on an application under this subsection or otherwise, that by reason of any change in minimum rates of wages or in the circumstances of the worker to whom the permit relates it is expedient to vary any condition specified in the permit, the committee may direct that the condition shall be varied in such manner as may be specified in the direction.
- (5) Before revoking any permit or varying any condition under the preceding provisions of this section an agricultural wages committee shall serve on the worker to whom the permit relates, and, in a case where the identity of his employer is known to the committee, on his employer, notice of their proposal so to do, and afford to the worker and the employer (where such a notice as aforesaid is required to be served on him) an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the permit relates and, in any case where the identity of his employer is known to the committee, on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

- (6) Where a permit granted to a worker under subsection (r) of this section contains a condition for the payment of wages to the worker at a rate not less than the rate therein specified, the amount of wages that may be recovered from an employer of the worker in pursuance of this Act 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.

6 Provisions as to learners.

- (1) Where a minimum rate of wages has been fixed under this Act for a special class of workers defined by reference to the fact that they are in receipt of instruction in agriculture, and the order fixing the rate provides that this section shall have effect in relation thereto, the rate shall not apply in relation to a worker unless there is in force a certificate given by the agricultural wages committee for the district in which the worker is employed that they approve the terms of his employment.

A certificate under this subsection may provide that it shall be deemed to have been in force from such date not earlier than the making to the agricultural wages committee of the application for the certificate as may be specified in the certificate.

- (2) An agricultural wages committee in granting an application for a certificate under the last foregoing subsection may impose such conditions as appear to them requisite for securing that the worker to whom the application relates shall receive adequate instruction, and that the terms of his employment shall be in other respects satisfactory, and if (whether on an application under this subsection or otherwise) it appears to the committee that a condition imposed under this subsection is not being complied with, or that the terms of the worker's employment are no longer satisfactory, they may revoke the certificate.
- (3) An agricultural wages committee may (whether on an application under this subsection or otherwise) vary a condition imposed under the last preceding subsection.

- (4) Before revoking a certificate or varying a condition under the foregoing provisions of this section an agricultural wages committee shall serve on the worker to whom the certificate relates and on his employer notice of their proposal so to do, and afford to the worker and employer an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the certificate relates and on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

- (5) It shall not be lawful for the employer of a worker, being an apprentice or learner, who is employed in agriculture in a district for which an agricultural wages committee is established under this Act to receive directly or indirectly from the worker, or on his behalf or on his account, a payment by way of premium unless the payment is duly made in pursuance of an agreement approved for the purposes of this subsection by the agricultural wages committee, and the amount of a payment received in contravention of this subsection shall be recoverable by the person by whom the payment was made.
- (6) If an employer acts in contravention of the last preceding subsection, he shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds, and in any proceedings against an employer under this subsection the court shall, whether there is a conviction or not, order the employer to repay any sum which the court finds to have been received by way of premium in contravention of the last preceding subsection.
- (7) Nothing in the last preceding subsection shall be taken to exclude the bringing otherwise than in accordance with that subsection of proceedings for the recovery of an amount due under subsection (5) of this section.
- (8) The Board may by order made in accordance with the provisions of the Third Schedule to this Act specify matters with respect to which an agricultural wages committee must be satisfied before granting a certificate under subsection (1) of this section or approving an agreement for the purposes of subsection (5) thereof.

7 Reckoning of benefits and advantages as payment of wages.

- (1) The Board shall have power, for each district for which an agricultural wages committee is established under this Act, by order made in accordance with the provisions of the Third Schedule to this Act—
- (a) to define the benefits or advantages (not being benefits or advantages prohibited by law) which for the purposes of a minimum rate of wages fixed under this Act may be reckoned as payment of wages in lieu of payment in cash ;
 - (b) to determine the value at which, for the purposes aforesaid, such benefits or advantages may be so reckoned ;
 - (c) to limit or prohibit the reckoning for the purposes aforesaid of benefits or advantages as payment of wages in lieu of payment in cash.
- (2) Subject to the provisions of any order under the preceding subsection, the court shall, in any proceedings under this Act, reckon as a payment of wages such amount as in the opinion of the court 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.

- (3) If an agricultural wages committee are satisfied, on an application in that behalf made by a worker employed in agriculture in their district or by his employer, that the value determined by an order or direction under this section for a house or part of a house occupied as a separate dwelling by the worker does not correspond with the true value thereof, the committee may, subject to any limits imposed by the Board by order made in accordance with the provisions of the Third Schedule to this Act, direct that the value of the house or part of a house is to be reckoned for the purposes of a minimum rate of wages fixed under this Act at such different amount as may be specified in the direction.

8 Power of agricultural wages committee to award additional wages for piece work in certain cases.

- (1) A worker employed in agriculture in a district on piece work for which neither a minimum piece rate nor a minimum time rate applicable in the case of workers employed on piece work has been fixed, or any person authorised by such a worker, may complain to the agricultural wages committee for that district 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, and the committee may, on any such complaint, after giving the employer an opportunity of making such representations as he thinks desirable direct that the employer shall pay to the worker such additional sum by way of wages for any piece work done by him at that piece rate at any time within fourteen days before the date of the complaint, or at any time after the date of the complaint and before the decision of the committee thereon, as in their 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.
- (2) A sum directed to be paid under the preceding subsection may be recovered by or on behalf of the worker from the employer as a civil debt.

9 Provisions as to applications, &c., to agricultural wages committees.

- (1) The procedure to be followed on or in connection with applications and complaints under any of the four last preceding sections to agricultural wages committees and sub-committees thereof shall be such (if any) as may be prescribed.
- (2) The Secretary of State may, out of moneys provided by Parliament, pay to persons attending as parties or witnesses before agricultural wages committees and sub-committees thereof allowances by way of compensation for expenses incurred and time lost by such persons in so attending, at such rates, as he may with the approval of the Treasury, determine, and all such payments made under this subsection shall be defrayed as part of the expenses of the Secretary of State in carrying this Act into effect.

10 Criminal liability of agents and special defence open to employer.

- (1) Where an offence for which an employer is under section four or subsection (6) of section six of this Act 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, or before or after the conviction of, the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.
- (2) Where an employer who is charged with an offence under section four or subsection (6) of section six of this Act proves to the satisfaction of the court that he has used due diligence to secure compliance with the relevant provisions of this Act, and that the offence was in fact committed by his agent or some other person, without his knowledge, consent or connivance, he shall, in the event of the conviction of that agent or other person for the offence, be exempt from any conviction in respect of the offence.

11 Avoidance of agreements in contravention of this Act and saving for other agreements, &c.

- (1) Any such agreement as the following shall be void, that is to say—
 - (a) an agreement for the payment of wages in contravention of this Act, or for abstaining from exercising a right of enforcing the payment of wages in accordance with this Act;
 - (b) an agreement as to holidays that is inconsistent with a direction of the Board in that behalf, or for abstaining from exercising the right to holidays conferred by any such direction.
- (2) Nothing in this Act shall prejudice the operation of an agreement or custom for the payment of wages at a rate higher than the minimum rate fixed under this Act or an agreement or custom as to holidays that is not inconsistent with a direction of the Board in that behalf.