Changes to legislation: *Agricultural Wages (Regulation) (Northern Ireland) Order 1977 is up to date with all changes known to be in force on or before 23 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1977 No. 2151 (N.I. 22)

Agricultural Wages (Regulation) (Northern Ireland) Order 1977

[21st December
\- - - - - - *1977]*

Title and commencement

1. This Order may be cited as the Agricultural Wages (Regulation) (Northern Ireland) Order 1977 … *Commencement* …

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 , 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;

"employment" means employment under a contract of service or apprenticeship;

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

[[F1]"the national minimum wage" means the single hourly rate for the time being in force by virtue of regulations under section 1(3) of the National Minimum Wage Act 1998, but this definition is subject to paragraph (2A);**]**

[F1]"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.

[[F1](2A) If, in the case of persons of any description, regulations under subsection (2) of section 3 of the National Minimum Wage Act 1998—

(a) prevent them being persons who (within the meaning of that Act) qualify for the national minimum wage, or

(b) prescribe a rate ("the reduced rate") for the national minimum wage other than the single hourly rate for the time being prescribed under section 1(3) of that Act,

this Order shall have effect in relation to persons of that description as if in a case falling within sub-paragraph (a) the national minimum wage were nil and in a case falling within sub-paragraph (b) the national minimum wage were the reduced rate.**]**

F1(3) For the purposes of section 42(2) of the Northern Ireland Constitution Act 1973 (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.

F1 1998 c. 39

[F2Relationship between this Order and the National Minimum Wage Act 1998.

2A.—(1) Except so far as expressly provided by this Order, nothing in the National Minimum Wage Act 1998 or in regulations made under that Act affects the operation of this Order.

(2) This Order is subject to—

(a) section 46 of the National Minimum Wage Act 1998; and

(b) section 47 of that Act and any regulations made under that section.**F2]**

F2 1998 c. 39

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.

[F3(1A) No minimum rate fixed under this Article which is an hourly rate shall be less than the national minimum wage.

(1B) No minimum rate fixed under this Article which is a rate other than an hourly rate shall be such as to yield a less amount of wages for each hour worked than the hourly amount of the national minimum wage.**]**

F3(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 minimun 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 is 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 of 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.

[[F3](13) If the Board makes, or purports to make, an order fixing a minimum rate under this Article—

(a) which is an hourly rate but which is lower than the national minimum wage in force when that minimum rate comes into effect, or

(b) which is a rate other than an hourly rate but which is such as to yield a less amount of wages for each hour worked than the hourly amount of the national minimum wage in force when that minimum rate comes into effect,

the Board shall be taken to have made an order fixing in place of that minimum rate a minimum rate equal to the national minimum wage or, as the case may be, a minimum rate such as to yield an amount of wages for each hour worked equal to the hourly amount of the national minimum wage.

(14) If, at any time after a minimum rate which is an hourly rate comes into effect under this Article, the national minimum wage becomes higher than that minimum rate, then, as respects any

period beginning at or after that time, the Board shall be taken to have made an order fixing in place of that minimum rate a minimum rate equal to the national minimum wage.

(15) If, at any time after a minimum rate other than an hourly rate comes into effect under this Article, the national minimum wage is increased to such a level that that minimum rate yields a less amount of wages for each hour worked than the hourly amount of the national minimum wage, then, as respects any period beginning at or after that time, the Board shall be taken to have made an order fixing in place of that minimum rate a minimum rate such as to yield an amount of wages for each hour worked equal to the hourly amount of the national minimum wage.

(16) Paragraphs (13) to (15) are without prejudice to the power of the Board to make further orders under this Article fixing any minimum rates.

(17) Where an order under this Article fixes any particular minimum rate of wages by reference to two or more component rates, of which—

(a) one is the principal component, and

(b) the other or others are supplemental or additional components,

(as in a case where the minimum rate for night work is fixed as the sum of the minimum rate payable in respect of work other than night work and a supplemental or additional minimum rate in respect of working at night) the national minimum wage provisions of this Article apply in relation to the principal component rate and not the supplemental or additional component rates.

(18) The national minimum wage provisions of this Article do not apply in relation to any minimum rate which is in the nature of an allowance payable in respect of some particular responsibility or circumstance (as in a case where a minimum rate is fixed in respect of being required to keep a dog).

(19) The national minimum wage provisions of this Article do not apply in relation to any minimum rate fixed under this Article by virtue of Article 5 or 8(5), unless and to the extent that regulations under section 2 of the National Minimum Wage Act 1998 make provision which has the effect that circumstances or periods in respect of which the minimum rate in question is required to be paid to a worker employed in agriculture are treated as circumstances in which, or times at which, a person is to be regarded as working.

(20) In this Article "the national minimum wage provisions of this Article" means paragraphs (1A), (1B) and (13) to (15).[F3]**]**

F3 1998 c. 39

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**[**[F4] Social Security Contributions and Benefits (Northern Ireland) Act 1992**]**[F4].

(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 .

F4 1992 c. 9

Permits exempting, in certain cases, payment of minimum rate

6. [F5] . . . . . .

F5 Art. 6 repealed (1.12.2006) by Agricultural Wages (Abolition of Permits to Infirm and Incapacitated Persons) Regulations (Northern Ireland) 2006 (S.R. 2006/429), reg. 3, **Sch.**

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 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 the 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