

2013 No. 1455 (C. 55)

AGRICULTURAL EMPLOYMENT

LANDLORD AND TENANT

TERMS AND CONDITIONS OF EMPLOYMENT

TOWN AND COUNTRY PLANNING

**The Enterprise and Regulatory Reform Act 2013
(Commencement No. 1, Transitional Provisions and Savings)
Order 2013**

Made - - - -

8th June 2013

The Secretary of State makes the following Order in exercise of the powers conferred by sections 100 and 103(3) and (4) of the Enterprise and Regulatory Reform Act 2013^(a):

Citation

1. This Order may be cited as the Enterprise and Regulatory Reform Act 2013 (Commencement No. 1, Transitional Provisions and Savings) Order 2013.

Provisions coming into force on 25th June 2013

2. The following provisions of the Enterprise and Regulatory Reform Act 2013 come into force on 25th June 2013—

- (a) section 19 (worker subject to detriment by co-worker or agent of employer);
- (b) section 72(1) (abolition of the Agricultural Wages Board for England and Wales);
- (c) section 72(4) and paragraph 2 of Schedule 20 (consequential provision) so far as relating to the enactments referred to in Schedule 1 to this Order;
- (d) paragraphs 9 and 20 of Schedule 17 (certificates of immunity from listing and application to listed buildings) and section 63 so far as relating to those paragraphs.

Provisions coming into force on 1st October 2013

3. The following provisions of the Enterprise and Regulatory Reform Act 2013 come into force on 1st October 2013—

- (a) paragraph 1 of Schedule 20 and section 72(4) so far as relating to that paragraph;

- (b) section 72(4) and paragraph 2 of Schedule 20 so far as relating to the enactments referred to in Schedule 2 to this Order.

Saving provisions

4.—(1) Subject to paragraph (2) and notwithstanding article 2(c), the 2012 Order continues in force until 1st October 2013.

(2) Nothing in this Order affects—

- (a) any right or liability accrued or incurred under the provisions of the 2012 Order or any previous Order; or
- (b) the validity of anything done under the provisions of the 2012 Order or any previous Order,

and the provisions of the 2012 Order and any previous Order are to be treated as continuing in force for the purposes of continuing the validity of anything done (or having effect as if done) under any such Order and for the purposes of enforcing any such accrued right or determining any such liability incurred.

(3) Notwithstanding article 3(a), the amendment of section 28 of the Rent (Agriculture) Act 1976(a) commenced by that article does not apply in respect of any application for advice under that section made before 1st October 2013.

(4) Notwithstanding article 3(b), the sections of the Agricultural Wages Act 1948(b) specified in Schedule 3 to this Order continue in force on and after 1st October 2013 in relation to a worker employed in agriculture before that date.

(5) In this article—

“the 2012 Order” means the Agricultural Wages (England and Wales) Order 2012(c);

“previous Order” means an order revoked by article 70 of the 2012 Order.

Jo Swinson

Parliamentary Under Secretary of State for Employment Relations and Consumer Affairs
8th June 2013

Department for Business, Innovation and Skills

SCHEDULE 1

Article 2(c)

Repeals and revocations coming into force on 25th June 2013

1. The Agricultural Wages Act 1948, sections 1, 2(4), 3, 6(8), 7(1) and 16, Schedule 1, paragraphs 1 to 7 and Schedule 4.
2. The Public Records Act 1958(d).
3. The Parliamentary Commissioner Act 1967(e).
4. The Agriculture Act 1967(f).

(a) 1976 c. 80.

(b) 1948 c. 47 (11 & 12 Geo 6).

(c) A copy of this Order and related guidance can be obtained from the following hyperlink, <https://www.gov.uk/government/publications/agricultural-wages-order-2012-and-guidance>, or from the Department for Environment, Food and Rural Affairs on request in writing to the Agricultural Wages Team, Area 3A, Nobel House, 17 Smith Square, London SW1P 3JR.

(d) 1958 c. 51.

(e) 1967 c. 13.

(f) 1967 c. 22.

5. The Social Security (Consequential Provisions) Act 1975(a).
6. The House of Commons Disqualification Act 1975(b).
7. The Northern Ireland Assembly Disqualification Act 1975(c).
8. The Social Security Pensions Act 1975(d).
9. The Employment Protection Act 1975, section 97(1), Schedule 9, Part 1 and paragraph 6 of Part 2, and Schedule 17, paragraph 12(e).
10. The Agriculture (Miscellaneous Provisions) Act 1976(f).
11. The Social Security (Consequential Provisions) Act 1992(g).
12. The National Minimum Wage Act 1998(h), Schedule 2, paragraph 2.
13. The Freedom of Information Act(i).
14. The Public Contracts Regulations 2006(j).

SCHEDULE 2

Article 3(b)

Repeals and revocations coming into force on 1st October 2013

1. The Agricultural Wages Act 1948, sections 3A, 4, 6(1) to (7), 7(3), 8, 9(1), 10 to 12, 15A, 17(1), 17(1A) and 17A(k).
2. The Agriculture (Miscellaneous Provisions) Act 1968(l).
3. The Employment Protection Act 1975, section 97(2) and Part 2 of Schedule 9 so far as that Part is still in force(m).
4. The Employment Rights Act 1996(n).
5. The National Minimum Wage Act 1998, sections 16(6), 16A(5), 46(4)(a), 47, 55(1) and Part 1 of Schedule 2 so far as that Part is still in force(o).
6. The National Minimum Wage Regulations 1999(p).
7. The Criminal Justice Act 2003(q).

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- (a) 1975 c. 18.
 (b) 1975 c. 24.
 (c) 1975 c. 25.
 (d) 1975 c. 60.
 (e) 1975 c. 71.
 (f) 1976 c. 55.
 (g) 1992 c. 6.
 (h) 1998 c. 39.
 (i) 2000 c. 36.
 (j) S.I. 2006/5, to which there are amendments not relevant to this Order.
 (k) 1948 c. 47 (11 & 12 Geo 6); sections 3A, 15A, 17(1A) and 17A were inserted by the National Minimum Wage Act 1998, Schedule 2, paragraphs 3, 8, 9(3) and 10 respectively.
 (l) 1968 c. 34.
 (m) Schedule 9, Part 2, paragraph 2 was repealed by S.I. 2004/2178, Part 1 of the Schedule and paragraph 6 is repealed on 25th June 2013 (see paragraph 9 of Schedule 1 to this Order).
 (n) 1996 c. 18.
 (o) 1998 c. 39; section 16A was inserted by the Employment Relations Act 2004 (c. 24), section 44. Schedule 2, paragraph 2 is repealed on 25th June 2013 (see paragraph 12 of Schedule 2 to this Order) and paragraphs 5 and 6 were repealed by S.I. 2004/2178, Part 1 of the Schedule, and the Statute Law (Repeals) Act 2004 (c. 14), Schedule 1, Part 2 (Group 2 – General Repeals) respectively.
 (p) S.I. 1999/584; relevant amending instruments are S.I. 2004/1930 and 2010/1901.
 (q) 2003 c. 44.

8. The Employment Relations Act 2004(a).

9. The Employment Act 2008(b).

SCHEDULE 3

Article 4(4)

Saving provisions in relation to the Agricultural Wages Act 1948

1. Section 3A (enforcement) in relation to—

(a) the application of the following sections of the National Minimum Wage Act 1998, as modified by subsections (3), (3A) and (4) of that section 3A—

(i) sections 9 to 11 (records);

(ii) section 14 (powers of officers);

(iii) sections 17 and 19 to 19H (enforcement of right to national minimum wage);

(iv) sections 23 and 24 (right not to suffer detriment);

(v) section 24 (enforcement of the right not to suffer detriment);

(vi) section 28 (evidence: reversal of burden of proof in civil proceedings);

(vii) sections 31 to 33 (offences);

(viii) section 48 (superior employers);

(ix) section 49 (restriction on contracting out); and

(b) the application of section 104A of the Employment Rights Act 1996 (unfair dismissal: national minimum wage), as modified by subsection (5) of that section 3A.

2. Section 4 (enforcement of holiday orders).

3. Section 6(1) to (7) (provisions as to learners).

4. Section 7(3) (direction by agricultural wages committee as to the amount at which value of house or part of house is to be reckoned).

5. Section 11A (appointment of officers)(c).

6. Section 12 (powers of officers).

7. Section 15 (evidence of resolutions and orders of the Agricultural Wages Board and agricultural wages committees).

8. Section 15A (information obtained by national minimum wage officers)(d).

9. Section 17A (relationship between the 1948 Act and the 1998 Act)(e).

10. Section 19 (criminal liability of agents and special defence open to employer).

(a) 2004 c. 24.

(b) 2008 c. 24.

(c) Section 11A was inserted by the Employment Relations Act 2004, section 47(1) and (3).

(d) Section 15A was inserted by the National Minimum Wage Act 1998, Schedule 2, paragraph 8.

(e) Section 17A was inserted by the National Minimum Wage Act 1998, Schedule 2, paragraph 10.

EXPLANATORY NOTE

(This note is not part of the Order)

This is the first Commencement Order made under the Enterprise and Regulatory Reform Act 2013 (c. 24) (“the Act”). Certain provisions came into force on the passing of the Act.

This Order commences certain provisions of the Act relating to the Agricultural Wages Board (“the AWB”) in England and Wales and related English Agricultural Wages Committees (“AWCs”) and Agricultural Dwelling-House Advisory Committees (“ADHACs”). It also commences one provision concerning planning and one concerning employment.

Article 2(a) brings section 19 of the Act (worker subject to detriment by co-worker or agent of employer) into force on 25th June 2013.

Article 2(b) and (c) and Schedule 1 provide for the commencement on 25th June 2013 of the provision in the Act which abolishes the AWB and of consequential repeals and revocations of enactments relating to the establishment and structure of the AWB and the setting of wages and other terms and conditions of workers employed in agriculture under the Agricultural Wages Act 1948 (c. 47) (“the 1948 Act”).

Article 2(d) brings into force on 25th June 2013 two paragraphs of Schedule 17 (heritage planning regulation) to the Act. Paragraph 9 removes the restrictions relating to the circumstances when applications for certificates of immunity from listing can be made in England. Paragraph 20 is a transitional provision in relation to paragraph 8 of Schedule 17 to the Act, which comes into force on 25th June 2013 under commencement provisions in the Act, relating to the listing of buildings of special architectural or historical interest in England.

Article 3 and Schedule 2 provide for the commencement on 1st October 2013 of further consequential repeals and revocations of provisions in enactments relating to enforcement and applications made to AWCs and ADHACs in England by workers employed in agriculture.

Article 4 provides for savings as follows. Paragraph (1) provides for the continued application until 1st October 2013 of the Agricultural Wages (England and Wales) Order 2012 (“the 2012 Order”) made by the AWB under powers conferred by the 1948 Act. Paragraph (2) provides for savings for rights accrued and liabilities incurred, and the validity of anything done, under the 2012 Order and any previous Orders revoked by the 2012 Order. Paragraph (3) provides for the continued application of relevant provisions of the Rent (Agriculture) Act 1976 (c. 80) on and after 1st October 2013 in relation to an application to an ADHAC for advice in England commenced before that date. Paragraph (4) and Schedule 3 provide for the continued application of the enforcement provisions of the 1948 Act on and after 1st October 2013 in relation to a worker employed in agriculture before that date.

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STATUTORY INSTRUMENTS

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