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Prime Minister ②

To note. No need to read document. The timing of the announcement may need to be coordinated with other issues on Government/ Union relations of GCHQ ILO etc.

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The Rt Hon Nigel Lawson MP  
Chancellor of the Exchequer  
HM Treasury  
Great George Street  
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15 February 1984

MT

Dear Nigel

Following consultation last year, my predecessor Norman Tebbit announced in July the Government's intention to repeal the Truck Acts and other related legislation, in order to facilitate the trend towards cashless pay. He also undertook to consult further on new statutory protections for deductions from pay for all employees and not just manual workers.

It is now time to begin those consultations, and I propose to issue the attached consultative document or or after 22 February. I shall inform the House by means of an arranged Question and shall send the document to the CBI and TUC and to others who have a direct interest in the subject. I aim to put final proposals to colleagues on the basis of responses to this document in the early summer.

I am sending copies of this letter and attachment to the Prime Minister, other members of E(A) Committee, the Lord Chancellor and Sir Robert Armstrong.

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## PROTECTION OF WAGES: LEGISLATIVE PROPOSALS

Issued for consultation by the Secretary of State for Employment

Introduction

1. Following consultations last year, the Government announced in July its intention to repeal the Truck Acts 1831-1940, the Payment of Wages Act 1960 and other related legislation in order to facilitate the trend towards cashless pay. It also undertook to consult further on the form and content of new statutory protections for deductions from pay which would apply to all employees, not just to manual workers. This paper sets out proposals for legislation on which views are invited.

Repeal of existing legislation

2. The statutory provisions giving manual workers the right to be paid in cash, guaranteeing them freedom to dispose of their wages as they see fit and prohibiting payment in kind would all be repealed as being no longer necessary in modern conditions. None of these provisions has ever extended to non-manual workers. The annex lists the legislation that the Government proposes to repeal.

3. The consultations last year showed widespread support for the repeal of these provisions. Given the wide variety of ways in which non-cash payments can be and are now made, the Government has concluded that the method of wage payment to manual workers need no longer be constrained by statute and can be left to be determined by employers, their employees and, where appropriate, their representatives. The methods of payment for non-manual workers have always been established in this way without statutory restriction or protection and, certainly in modern circumstances, without giving rise to serious practical problems.

4. As for the freedom to dispose of wages, the consultations did not reveal any actual or potential difficulties which might arise on the repeal of the statutory provision which, as with the other protections, has never extended to non-manual workers.



5. The consultations also failed to reveal any evidence of abuse or potential abuse relating to payments in kind, concerning either manual workers who are covered by statutory provision at present or non-manual workers who are not.

6. Repeal of the statutory provisions would not of course affect the right of employees to sue their employer on a claim that their contractual obligations were not being fulfilled. The Government would nevertheless be ready to consider the re-establishment of protections for freedom to dispose of wages and against payments in kind if it ever became evident that their repeal had engendered significant abuse.

Deductions from pay

7. Although in the earlier consultations a view was expressed that common law protections were sufficient and there was no need to contemplate the continuance of statutory provisions on deductions from pay, there was greater support for the suggestions made in the consultative document for new procedures providing protections for all employees, ie for non-manual workers as well as manual workers.

8. The proposals are:-

(a) Legislation will permit a deduction by an employer from the employee's pay (or a fine or other requirement on the employee to make a particular payment) if it is:-

- (i) authorised under other statutes; or
- (ii) provided for in the individual's contract of employment either expressly, or impliedly by any means such as collective agreement or custom and practice in the trade or industry in question; or
- (iii) otherwise agreed to by the individual in writing.

(b) An employee will have the right to make a complaint to an Industrial Tribunal if a deduction not in accordance with these criteria is made from his pay.



(c) Unless the complaint is otherwise resolved, eg by ACAS conciliation, the Tribunal will be empowered to determine whether or not a deduction has been made in accordance with the criteria and to order the employer to repay any amount deducted unlawfully.

(d) Enforcement will be through the County Court and appeal will lie to the Employment Appeal Tribunal on a point of law.

9. These criteria are broadly those put forward in the previous consultative document. However, a good deal of concern has been expressed about the way in which deductions are sometimes made from pay in respect of stock and cash deficiencies and the substantial proportion of an employee's pay which is deducted in some cases - particularly where the employee may have only limited control over the deficiencies. The practice appears to be by no means uncommon for petrol station cashiers but is also found in other employments, eg bar staff, assistants in small shops, car park attendants. Such deductions (which may be in the form of a fine or other required repayment) - need at present, in the case of manual workers and shop assistants, to be made in accordance with Section 1 of the Truck Act 1896 to be lawful, a key requirement being that the employer's right to make deductions is explicit in the contract of employment.

10. It has been argued that the proposals as originally published - relying on contractual agreements - do not provide sufficient protection against arbitrary deductions for deficiencies and situations in which an employee might lose an excessive proportion of his pay. There is a need therefore to consider the case for an additional safeguard in this area. The Government recognise that in some employments the control of stock and cash can pose difficulties; however it may well be thought that such difficulties are best tackled through better selection and training of staff, closer managerial supervision and disciplinary action for poor standards of performance which could of course extend to dismissal. In some circumstances other legal remedies might be appropriate.



11. With these concerns in mind, the Government invites views on alternative proposals for a special protection in respect of deductions (or other required repayments) relating solely to stock and cash deficiencies. These are:-

(a) to make all deductions for cash and stock deficiencies unlawful so that an employee could, if necessary, apply to a Tribunal to order the payment of any amount so deducted.

(b) alternatively deductions which satisfied the criteria in paragraph 8 above would be permissible but subject to a statutory limit on the proportion of wages which could be deducted in any pay period. The form of this would be that whilst deductions could be made in respect of a deficiency in successive pay periods in no one pay period could a deduction for stock or cash deficiencies exceed 10% of the gross pay otherwise due to the employee concerned.

#### Conclusion

12. Comments on the proposals are invited. They should be sent to the Department of Employment, IRD, Room 338, Caxton House, Tothill Street, London SW1 by 3 May.



Legislation to be repealed

The Truck Acts 1831-1940

The Payment of Wages Act 1960

The Hosiery Manufacture (Wages) Act 1874

The Payment of Wages in Public Houses Prohibition  
Act 1883 (as amended)

The Stannaries Act 1887 s12 & 13

The Shops Clubs Act 1902

The Coal Mines Regulations Act 1887 ss12 and 14

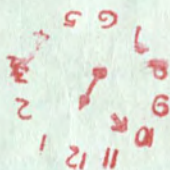
Checkweighing in Various Industries Act 1919.(as amended)

Mines and Quarries Act 1954 s.51(2) (as amended)

The Wages Councils Act 1979 s.17



Gov Mach" July 80  
Truck Acts



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