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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

WAGES COUNCILS

Memorandum by the Secretary of State for Employment

At E Committee on 24 February I was invited to circulate a memorandum with recommendations, on wages councils (E(81) 8th meeting). The future of the wages council system was discussed by E(EA) Committee last May and November, on the basis of two papers by me and inter-departmental reports by officials. The sub-committee concluded that the wages council system should be retained, but endorsed my proposals for slimming and improving it.

2. Appropriate measures are in hand. I have announced that we are cutting the wages inspectorate by a third (100 staff). Some amalgamations of councils and reductions in scope are in progress. Grey Gowrie has made very clear to the chairmen and members of individual councils the Government's concern over the special problems of small firms and about the back-dating of pay increases. We are making progress; certainly minimum rate increases in the current pay round have been much more realistic.

3. But it has been suggested that we should go further, and legislate to sweep away the whole system. I am in no doubt that such an approach is unrealistic and would be politically highly damaging. The wages council system, set up because of all-party concern to prevent exploitation of unorganised workers in low-paid sectors, has persisted

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for 70 years under successive governments. It is historically grounded in the concept that a fair and reasonable society should provide some minimum level of wage protection for the weaker and more vulnerable sections of the workforce - those at the bottom of the pile. It would do us no good to appear hostile or indifferent to that concept nor is it in our tradition to be so. The wages council system was set up by Winston Churchill and no doubt great play would be made of this.

4. Wages councils - the number is now down to 33, covering some 21 million workers - are continued only in sectors where trade union organisation is weak or virtually non-existent, where there is no adequate voluntary machinery for settling pay, and where pay levels are generally low. The minimum wage rates published by each council are set by the trade and for the trade. Over 80 employer organisations are represented on the councils including many representing small businesses such as the National Chamber for Trade, the National Union of Small Shopkeepers, the National Federation of Retail Newsagents, and the Retail Confectioners and Tobacconists Association. Statutory minimum rates are on average about 20% lower than collectively bargained minimum rates. Many employers choose to pay more than the statutory minima, but earnings level in wages council sectors are consistently in the bottom range of the national earnings distribution.

5. It is right that we should prune and improve the system wherever possible, and I intend to keep up the pressure. But to seek to abolish it wholesale would involve highly controversial legislation. It would undoubtedly be widely portrayed as an attack on particularly vulnerable groups including young persons, part-time female workers and immigrants. Such categories are widely employed in the wages councils sectors in jobs that are already low-paid by any standards. And most of them are not trade unionists.

6. A move for wholesale abolition would be opposed by the unions and most of the employer organisations involved in the system. It would have no general support. It would act as an incentive to trade union activity in the small business sector - a point about which the National Federation of Self Employed and Small Businesses expressed some apprehension when they met Grey Gowrie recently. It would logically entail abolition of the Agricultural Wages Boards, where identical considerations apply. It would leave us virtually alone amongst the western economies (including the USA and West Germany) in having no statutory minimum pay safety-net. And the legislative process would be bound to stimulate an emotive and protracted debate about low pay generally, creating pressures for the much more expensive and damaging alternative of a national minimum wage.

#### Inflation and unemployment

7. All of these consequences might be worth facing if there were any plausible evidence that significant economic benefits might flow from wholesale abolition. But the scope for such benefits is in reality very

limited. Criticism of the wages councils centres mainly on their alleged contribution to inflation and to unemployment. These were the main areas which were studied by an inter-departmental working group of officials, and I attach at Annex A a copy of their report which was the basis of our discussion at E(EA) in November. From investigation of the economic and statistical evidence the general conclusion was that statutory minimum rates were relatively low, that they followed rather than led wage movements elsewhere, and that in practice they influenced employment only at the margin.

8. Recent criticisms have tended to focus on the question of unemployment amongst young people. They have been put, forcibly but not always very accurately, by the National Federation of Self Employed and Small Businesses Ltd in their booklet "Priced Out - the effect of Wages Councils on Jobs". At Annex B is their summary, with some brief comments. The booklet expresses the understandable exasperation of the small businessman who is operating in adverse economic conditions and who sometimes attributes to wages councils problems which are more accurately due to inflation. But it is stronger on assertion than on evidence and reliable factual material.

#### Exclusions

9. When E(EA) reached the conclusion that the wages council system should not be abolished I was invited to examine whether it might be possible to remove young people and part-time workers from their scope. I attach at Annex C a report by my officials which sets out the considerations, possibilities and main arguments.

10. The case for exclusion is based on the argument that job opportunities for young persons and part-time workers would be increased if employers were free to take them on at less than the statutory minimum rates. Given the pressures of inflation, such representations are understandable. But the facts are that statutory minimum rates for young persons and part-timers are lower than comparable collectively bargained rates, and rates actually paid frequently exceed the statutory minima. In practice, therefore, excluding these categories from scope would not of itself be likely to achieve to any significant degree actual reductions in pay or increased job opportunities. A handful of additional jobs might be created in marginal cases, but generally any increase would be largely at the expense of the jobs of full-time adults, since there is no plausible evidence that exclusion of these groups would significantly increase job opportunities overall in the wages council sectors. And to the extent that the exclusion of young persons from the scope of wages councils might induce some employers here and there to recruit them as "cheap labour" in preference to adults, the same considerations would operate as an inducement to dismiss them before they reached entitlement to the statutory adult rates.

11. I naturally share the concern that statutory minimum rates should not be such as to discourage the employment and training of young people. But this is a matter which goes very much wider than wages councils. The proposed consultative document on industrial training identified the narrowing of age-differentials as a matter which needs consideration across the board. The wages councils simply reflect the trends set by collective bargaining throughout industry generally; if we can influence the latter trends in the right direction the wages councils will follow. As it is, adult rates in the wages council sector are mostly reached rather later than is the case across industry generally. The rates set by wages councils for 18 year olds currently average £42; but freely negotiated minimum rates for 18 year olds average £52.

12. Whilst understanding the feelings behind the complaints made by small businessmen, I believe that to seek these exclusions would not only yield little economic benefit but would be highly damaging politically. Young persons and part-timers (mainly married women who work part-time of necessity) probably account for about half the total number of employees covered by wages councils. They are amongst the lowest paid in the workforce. Public sympathy would be readily enlisted on their behalf. Opposition from the TUC, the EOC, the feminist and low-pay lobbies would be vocal and emotive. Complications would be likely to arise in connection with the Equal Pay Act, the Sex Discrimination Act, European law and international conventions.

13. To exclude young people and part-time workers from the scope of wages councils would require primary amending legislation. Given the purpose and wording of the existing legislation, such amendment would present fundamental difficulties. We would be seeking to amend legislation designed to protect vulnerable groups of workers in such a way as to exclude some of the most vulnerable of all. Any consequential increase in job opportunities for these categories could be no more than marginal, and that largely at the expense of full-time adult jobs.

Conclusion

14. Wholesale abolition of the wages council system, or exclusion of large categories of those currently within its scope, would require primary legislation of a highly controversial and politically damaging kind. There are no grounds for believing that such steps would lead to economic benefits of any significant dimensions; and I am in no doubt that the damaging consequences overall would outweigh any conceivable gains. My strong recommendation is that we should continue with a policy of progressive improvement as endorsed by E(EA) Committee.

Department of Employment  
8 April 1981

J P

## REPORT OF THE INTERDEPARTMENTAL WORKING GROUP ON WAGES COUNCILS

1 At E(EA) Committee on 13 May 1980 Ministers considered a paper on low pay and wages councils. They called for a further report by officials in the light of the Committee's discussion, dealing in particular with the effects of the abolition of wages councils on inflation and employment, and with proposals for slimming down the system (E(EA)(80)9). The following report has been prepared by officials from the Department of Employment, after consultation with the Departments of Trade, Industry, Health and Social Security, Agriculture and Treasury. It is confined to the points raised in E(EA) rather than the general arguments for and against retention of the wages councils system.

2 In discussion at E(EA) two possible means of changing the wages council system were raised: imposing a statutory duty to maximise employment; and removing the power to make statutory orders and linking the resultant voluntary system with the social security system. These were fully discussed by the Group, which concluded that they did not lead to practicable proposals. The arguments are set out in Annex A1, which also covers other matters mentioned during the Committee's discussions. Officials were not asked to report on Agricultural Wages Boards, which operate in very much the same way as wages councils.

## WAGES COUNCILS

3 The Wages Councils Act 1979 (in a line of legislation dated back to 1909) provides powers to establish, abolish or vary the scope of wages councils. These powers have always been exercised by reference to two main criteria viz: the adequacy of other machinery for determining the pay of the workers concerned, and the maintenance of reasonable standards of remuneration. The system has been contracting since the mid-50s; there are currently 34 wages councils covering some 2.75 million workers. Not all low paid workers are covered by wages councils. Wages councils meet the UK's commitments under ratified ILO Conventions.

## ECONOMIC EFFECTS OF WAGES COUNCILS

- 4 The Group has examined available economic and statistical data to see how far statutory minimum wage rates (SMRs) affect actual pay rates, earnings or employment in wages council industries. In addition the effect of SMRs on pay rates and earnings outside the wages council industries has been examined. The limited evidence concerning the economic consequences of abolition where this has occurred has also been scrutinised.
- 5 SMRs set by wages councils are lower (by about 20%) than the generality of wage rates in other sectors of the economy and for similar jobs covered by collective agreements. Changes in SMRs have kept up with wage increases elsewhere overall but have not exceeded them. Earnings levels in wages council industries are in the bottom quarter of the earnings distribution. There is no tendency for earnings in wages council industries to rise faster than those in other industries and services.
- 6 Within wages council industries, earnings have consistently exceeded SMRs by 20-30% over many years, but it is not clear how changes in SMR affect the whole structure of wage rates and earnings in an industry. No consistent pattern exists to support either the assertion that changes in SMRs determine earnings changes or that prior earnings movements are later reflected in SMR changes. What is more certain is that changes in SMRs have little, if any, impact on earnings movements outside the wages councils sectors.
- 7 Employment trends in wages council industries are similar to, but slightly less favourable than, those in manufacturing and service industries in the economy as a whole. There is no evidence that wages councils are responsible for these trends. Many other influences are involved (changes in demand and consumer preference, new technology, import competition etc) and it is not possible to isolate their various effects. In industries where wages councils have recently been abolished there is no evidence of any subsequent improvement in employment levels; however the characteristics of industries where councils have been abolished differ from those

for which councils have been retained.

8 The economic evidence is based on a number of sources, imperfect in themselves but together sufficient to reveal any significant trends. None is apparent; rather the evidence suggests that SMRs are fixed at roughly the minimum levels which would have been determined through the entirely free operation of market forces. We conclude therefore that the effects of the awards of wages councils on inflation and employment tend to occur only at the margin, and that the economic effects of abolition would similarly be marginal.

9 Within this general conclusion, investigation of the limited evidence available indicated that in the event of abolition some of the lowest paid workers would be worse off. To the extent that this would increase the entitlement of some workers to benefits such as Family Income Supplement there would be a transfer of some of the costs of their employment from the employer to the State. There would also be a reduction in incentives to work for those unable to meet their personal or family expenditure needs from lower rates of pay.

10 There is some anecdotal evidence of labour shedding in small marginal firms where employers attribute labour loss to statutory wage fixing. But again it is not possible to disentangle the effects of statutory wage fixing from those of inflation, depressed consumer spending and structural changes such as the move to supermarkets. And some turnover of establishments at the margin is to be expected in the interests of efficiency.

#### STREAMLINING THE SYSTEM

11 Slimming down the system can be achieved by abolishing or reducing the scope of particular wages councils. Over the years wages councils have been abolished as alternative wage fixing machinery has developed. 15 have gone in the last 10 years and another small council is presently under notice. Because of the continuing process of abolition the immediate scope for further reductions of this sort is not

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great but the search for further candidates should be pursued rigorously.

12 The option of reducing scope has not been widely used in the past. As a consequence, within the major wages council sectors there are a number of areas of established collective bargaining insufficient to warrant abolition of the council against the test of the criteria in paragraph 2 but covering significant numbers of workers. For example the Multiple Food Retailers Employers' Association are covered by the Retail Food and Allied Trades Wages Council but negotiate rates of pay independently with USDAW for some 150,000 workers. In addition there are groups of workers whose pay is not negotiated by collective bargaining but which exceeds the lowest adult statutory minimum rates and does not appear likely to fall to those levels. By identifying and excluding these groups the size of the larger councils could progressively be reduced in consultation with the parties directly concerned. It is not possible to quantify these reductions in advance of consultation.

13 In addition to slimming down the system, there are various ways in which its operation might be improved. These are discussed in Annex A 2.

14 It would theoretically be possible to consider going further and seek to abolish or reduce the scope of particular councils by reference to new criteria, although it would be very difficult to frame these consistently with the objectives of the legislation as it stands.

#### SUMMARY

15 We have been unable to find any evidence that wages councils have significant effect one way or another on employment or inflation generally, although they may influence the position of some individual firms. Wholesale abolition of wages councils would be likely to result in a relative fall in the earnings of some low paid workers but would have only a very minor impact in overall economic terms.

16 There is scope for slimming down wages councils and for improving their operation as discussed in paras 11-14 and Annex A2.

October 1980

### A DUTY TO MAINTAIN EMPLOYMENT

The purpose of such a duty would be to oblige wages councils to concentrate their attention on the labour market when setting their rates. If there was a qualified demand for labour the wages council would be expected to increase their minimum rates accordingly; if there was unemployment their duty would be to ensure that rates were not increased by amounts which inhibited the growth, or accelerated the decline, of employment.

The employers' and workers' sides of wages councils would interpret such a duty very differently and the process of negotiating revised minimum rates would become more contentious. Wages councils would be likely to call for information to enable them to discharge of such a duty, increasing the costs of the respondent. Monitoring and enforcement would present problems. It is not possible to predict with certainty the employment consequences of any particular rate of pay in the short and long term. Thus wages councils would have no sound basis for their decisions and Ministers or the Courts have a measure by which to judge subsequent compliance.

The proposed new duty would leave wages councils' decisions open to the challenge that they failed to meet a statutory obligation. Ministers would be obliged to be called upon to express a view whether or not a particular rate

## OTHER SPECIFIC POINTS RAISED AT E(EA)

1 In discussion Ministers raised two possible changes to the wages councils legislation. Both would require primary legislation. These were the introduction of a statutory duty to maximise employment; and removal of the power to make statutory orders supplemented by special provision in the social security system. These options are discussed below.

## A STATUTORY DUTY TO MAXIMISE EMPLOYMENT

2 The purpose of such a duty would be to oblige wages councils to concentrate their attention on the labour market when setting their rates. If there was unsatisfied demand for labour the wages council would be expected to increase their minimum rates accordingly; if there was unemployment their duty would be to ensure that rates were not increased by amounts which inhibited the growth, or accelerated the decline, of employment.

3 The employers' and workers' sides of wages councils would interpret such a duty very differently and the process of negotiating revised minimum rates would become more contentious. Wages councils would be likely to call for information to assist in the discharge of such a duty, increasing the costs of the secretariat. Monitoring and enforcement would present problems. It is not possible to predict with certainty the employment consequences of any particular rate of pay in the short and long term. Thus wages councils would have no sound basis for their decisions, nor would Ministers or the Courts have a measure by which to judge statutory compliance.

4 The proposed new duty would leave wages councils' decisions open to the challenge that they failed to meet a statutory obligation. Ministers would presumably be called upon to express a view whether or not a particular rate

erved to maximise employment. Moreover maximising employment by this means may not always be a desirable objective. In some industries regeneration is dependent on labour shedding and new investment. Finally, it would be difficult to sustain a case for imposing such a duty in the absence of clear evidence that the present system has a damaging effect on employment.

#### REMOVAL OF THE POWER TO MAKE STATUTORY ORDERS AND LINKAGE WITH SOCIAL SECURITY SYSTEM

5 It was suggested that the Wages Councils Act should be amended so as to remove the power to make enforceable orders. Wages councils would fix voluntary recommended rates of pay and individual employers would be able to take account of these recommendations when setting their own pay rates.

6 Removal of the statutory power would be widely regarded by unions and employers as a devious way of abolishing the wages councils system. It is an essential feature of the system that the rates are enforceable: wages council are only established and maintained in sectors where effective voluntary arrangements do not exist.

7 The linkage with social security would be made as a means of preventing loss of statutory enforcement from causing a loss of earnings for low paid workers. Workers whose employers paid below the recommended rates for their occupation would receive some form of earnings supplement through the social security system. There are serious drawbacks to this proposed linkage. Firstly, the social security system is based on either fixed rate benefits paid under specific circumstances such as unemployment (and often on a contributory basis), or means tested benefits based on family incomes and needs. A scheme for topping up low pay would have some affinity with the means testing principle. However a worker's level of pay is not indicative of family income or needs. A scheme for topping up pay simply because it falls below a recommended level for a given occupation would, in social security terms, be both anomalous and unjust. Secondly there would be the twin dangers of some employers paying lower rates knowing that the State would make up the difference; and of the wages councils recommending higher rates because

of the existence of State support. Moreover it would be difficult to resist the argument that such a scheme should apply to all low wage earners, not only those who worked in the wages councils sectors.

8 The costs of income support through this or any other similar scheme would be a considerable addition to public expenditure and require an increase in civil service staff numbers. And if employers took full advantage of such a scheme it would be difficult to quantify or contain costs.

OTHER POINTS

9 Two incidental subjects were raised in Ministerial discussion; tips and the administrative burden of wages councils.

10 Tips are a transaction between customer and worker and are not part of wages nor do they feature in earnings statistics unless passed on by an employer as part of a guaranteed wage. Tips are only of importance in the licensed hotels and restaurants wages council sector, where the wages council involved sets a lower minimum rate for workers likely to receive tips; and in hairdressing where the minimum rates are exceptionally low.

11 The administrative burden of wages councils involves the keeping of hours and wage records, the posting of notices and accepting a visit or written enquiry on average once every six years. The burden rarely provokes complaint nor does it appear to be particularly heavy. Nevertheless it is part of the cumulative burden of Government intervention. The Wages Inspectorate are introducing written forms of inquiry as a means of reducing the number of visits to employers' premises.

## IMPROVING THE PRESENT SYSTEM

1 Officials have discussed a number of improvements to the way the councils operate which would both increase their efficiency and reduce the criticisms voiced in letters of complaint. Generally the improvements described are possible within the existing legislation; some are already in hand.

## SMALL EMPLOYERS AND "PIN MONEY" EMPLOYEES

2 By far the largest volume of criticism of the present system comes from small employers, who face a range of economic problems. They are greatly affected by inflation and by market changes and it is probable that their difficulties in many cases do not stem directly from wages council minimum rates.

3 There are extremely difficult problems in any attempt to relieve small employers and their employees from the full operation of the system by reducing the scope of particular councils or by amending the legislation to exclude them. The wages councils themselves may make special provision for these particular cases in their decisions; and the Minister of State for Employment has written to the two large Retail Councils (where this problem looms largest) asking them to consider what might be done. Replies are expected shortly.

## RETROSPECTION

4 A second major cause of complaint arises from the situation where some wages council orders may not be published until after the date of implementation and employers are required to make retrospective payments. This liability for arrears of pay without adequate warning arises in particular from the power given to wages councils under the Employment Protection Act 1975 to make their orders retrospective to any date back to and including that on which the council first determined its proposals. The date of implementation is a negotiable item and there is a tendency for employers on occasion to concede a retrospective settlement in order to reduce its total amount; and also a tendency for unions to avoid an agreement to an increase dating too far ahead.

5 Much of the criticism arose from one particular and rather exceptional case. However the Minister of State for Employment has written to wages councils asking them to do all they can to take steps to avoid or to minimise retrospection and offering the Department's assistance in obtaining the greatest degree of publicity for a settlement where retrospection proves inevitable. If the councils fail to respond to this persuasion the alternative remains of amending the Act to allow wages councils the powers to make orders effective only from the date of publication of the order or proposal.

SIMPLIFICATION

6 Many wages councils orders are much too complex and difficult to understand, particularly for a small employer. The decisions of councils are frequently complicated, covering a multiplicity of pay rates, overtime payments, conditional payments etc. Furthermore the language in which the orders are expressed tends to be legalistic because of the liability for enforcement in the courts. The Government has no power to modify the decisions of wages councils which are also technically responsible for the drafting of their orders.

7 The Department of Employment has for some time been encouraging wages councils to simplify decisions and has cooperated in simplifying the drafting of orders. Encouraging results are now beginning to emerge and effort is being concentrated on those councils which cover substantial numbers of employers and workers. In addition to simplifying orders and their provisions the Department is proposing to wages councils that the notice of orders sent to employers for posting in the workplace should embody a very simple summary of the main points as guidance to the recipient.

8 These efforts will be pursued. It might be possible to go further by amending by statutory instrument the regulations concerning the issue of notices and proposals so as to allow a simply worded explanation to the proposed changes to be sent instead of the order itself. A more radical move would be to amend the Wages

Councils Act so as to restrict the power to set rates to a single minimum rate. It would however prevent wages councils from determining a wages structure for their trade. Unions would no doubt concentrate on securing the highest possible minimum rate.

#### OTHER IMPROVEMENTS

9 There is no doubt that in some councils the employers' ability to present a well argued and researched case is inferior to that of the workers' side. This is primarily a matter for the employer organisations concerned. Where possible the Department of Employment is encouraging the development of a more coherent voice on the employers' side of councils (eg the move of the Retail Consortium to establish a Retail Wages Liaison Committee which could in time take on this role for the Retail Wages Councils). In addition the Department is looking very closely at the background and qualification of the independent members, who have tended in the past to be predominantly academics or lawyers. In particular it is intended to draw independents from a wider field and to include those with practical industrial experience. The Minister of State is also meeting the independent chairmen of major wages councils to discuss particular problems.

"PRICED OUT"

Comments on main points made by the National Federation of Self Employed and Small Businesses Ltd in their recent booklet "Priced Out! The Effects of Wages Councils on Jobs".

Summary

(1) "Wages Councils were mostly set up in the 1920s to protect workers from 'sweatshop' conditions and low rates of pay in fragmented industries that were hard to organise. Because of rapid advances in communications and centralised collective bargaining, they are no longer necessary."

Comment

Wages Councils are only retained where adequate machinery for pay determination does not exist. Where voluntary collective bargaining does develop, wages councils are abolished. Sixteen have been abolished since 1969.

(2) "Wages Councils have the power to fix minimum wage rates for 2.7 million workers in every trade from haberdashery to hotelkeeping. Their awards have the power of law, and employers can be subject to large fines for underpayment."

Comment

Wages Councils exist only for trades where there is no adequate collective bargaining machinery. Maximum fine for underpayment is £100. There were only 8 prosecutions last year.

(3) "Over the last few years, Wages Councils have used their statutory powers to force wages increases on employers that are far ahead of the rate of inflation, of wage rates in comparable industries; and of average wages in the economy as a whole."

Comment

A muddled and misleading statement which compares minimum rates with RPI changes since 1972 and with changes in average earnings. Earnings in the economy as a whole have risen faster than prices in recent years. Past incomes policies have made special provision for the lower paid. Even so, earnings in wages

councils trades have risen no faster than earnings generally, and they remain in the bottom quarter of the national earnings distribution. Most employers are not 'forced' to increase wages by the same percentage increase as agreed for statutory minimum rates, because they already pay above the statutory minima.

- (4) "Wages Councils have forced up the real cost of labour considerably by insisting on increases well above average for younger workers, and by reducing the length of the working week."

Comment

These trends are common to pay bargaining in the economy as a whole. Statutory minimum rates for young persons are significantly lower than comparable collectively bargained rates.

- (5) "The effect of this has been to cause unemployment. The worst affected have been women, school leavers, and ethnic minorities, who have all found themselves priced out of jobs. The Government should realise that it must encourage people to create jobs, not make it more difficult, as is the effect of Wages Councils' awards."

Comment

The booklet offers no statistical or other evidence. The inter-departmental working group concluded that minimum rates have affected employment only at the margin. The minimum rates underpin but do not determine pay levels; many employers choose to pay more than the statutory minima.

- (6) "Wages Councils entail an expensive secretariat and enforcement arm. They add further costs to businessmen and consumers because of increased paperwork. Many Wages Council awards are difficult to interpret and understand, causing further administrative difficulties for traders. The powers of the inspectorate are sweeping."

Comment

Annual cost of secretariat, expenses etc is about £280,000. The Inspectorate, which cost £2.65 million last year, is being cut by one third to about 200 posts. Simplification of awards is an agreed reform which is in hand.

- (7) "Wages Councils are nevertheless inefficient, and often allow far too little time for those affected by their decisions to lodge objection."

Comment

Councils must allow at least 14 days for representations, but may allow more.

- (8) "Awards can be backdated, so that traders never know exactly where they stand with respect to labour costs. This makes efficient budgeting impossible, driving down profit margins and reducing the number of new firms entering each industry - or making extra costs for the consumer. There is an overwhelming pressure from small businessmen for longer periods of consultation, a less offhand approach from inspectors, and the ending of backdated awards."

Comment

Awards may be backdated to date of council decision. Avoidance of retrospection is an agreed reform about which the Minister of State has written to councils. Very few complaints/<sup>are</sup>received against wages inspectors.

- (9) "Wages Councils have outlived their usefulness, have an adverse effect on trade and employment, and ought to be abolished. In the meantime, they should be reformed, made more representative, reduced in scope and made aware of their harmful effects."

Comment

An agreed programme of reforms is in hand.

## WAGES COUNCILS : REMOVAL OF YOUNG PEOPLE AND PART-TIME WORKERS

Note by DE Officials

1 At E(EA) on 10 November the Secretary of State for Employment was invited to consider whether young people and part-time workers might be removed from the scope of wages councils. This paper considers the arguments for and against such action, and the ways in which removal might be achieved. The main arguments would also apply to other categories of this kind, such as pensioners.

A. YOUNG PEOPLEThe case for excluding young people

2 Young people are one of the groups of workers frequently mentioned in complaints about the system, and particularly so in the context of the current problems of youth unemployment. There are two main arguments put forward for their exclusion:

(i) Some employers covered by wages councils - chiefly those running small businesses - say that if they were allowed to pay below the present statutory minimum rates (SMR) for young people they would be able to take on additional workers; and conversely that the fact that they are required to pay the SMR is a deterrent to such employment. The underlying reasoning appears to be that, because of their lack of work experience, unemployed young people - and school leavers in particular - form a pool of labour somewhat separate from the main labour market. It is further argued that although those employed would have to accept lower wages, they would be getting the benefit of work experience;

(ii) it is also argued that the lessening of the differential between the minimum rates for adults and juveniles set by wages councils is an encouragement to employers to substitute adults for young people in their workforce because the differential is no longer sufficient to compensate for the greater cost of training and supervision of young people.

The case against exclusion

3 The inter-Departmental report by officials which was considered by Ministers at E(EA) found no evidence of any significant loss of employment directly attributable to the setting of minimum rates by wages councils. And evidence shows that the recent narrowing of adult/juvenile differentials (and the trend for the adult rate to become payable to an earlier age) is not peculiar to wages councils' awards but is a feature of collective agreements throughout industry generally over recent years.

4 A number of possible outcomes from exclusion need to be taken into account:-

- (a) Any resultant increase in the employment of young people would be largely at the expense of adult employment, particularly since the argument that young people form a separate section of the labour market is less valid in most wages council trades (such as retailing) where there is little difference between the jobs done by adults and young people. Such substitution would involve the higher economic costs of adult unemployment. And, of course, it would lead to very strong criticism in individual cases;
- (b) if, as a result of exclusion, employers were induced to employ a greater number of young people, the same inducement would be likely to lead to their dismissal on reaching adult age. This would result in a highly unsatisfactory early employment experience, very damaging to the young people concerned;
- (c) the inexperience of young people in the labour market makes them especially vulnerable to exploitation.

Legal and international considerations

5 Removal of young people from scope would probably require the UK to denounce ILO Convention 26 on minimum wage fixing machinery. It might also call into question our ratification

of Article 7/5 of the European Social Charter by which we are pledged "to recognise the right of young workers and apprentices to a fair wage." Exclusion of young people would not appear to conflict with European law, although the possibility cannot be ruled out entirely because of doubts over the European Court's interpretation of the relevant provisions.

## B. PART-TIME WORKERS

### The case for excluding part-timers

6 The position of part-timers within wages councils attracts criticism, particularly from small employers who argue they would employ more part-timers if they could pay below the statutory minima. The main arguments include:

- (a) When the case for taking on an extra employee is marginal an employer will frequently consider a part-timer, and it is in these marginal areas that statutory minimum rates act as a deterrent to employment;
- (b) part-timers generally are less dependent on levels of earnings than full-timers and will be content with lower rates (the "pin-money" argument).

### The case against exclusion

7 The main arguments against are:-

- (a) The vast majority of part-timers are women. Exclusion would be widely seen as discriminatory and counter to the Government's commitment to a policy of equal opportunity;
- (b) if the exclusion of part-timers led to additional jobs for them, it would be likely to take the form of the substitution of part-timers for full-timers. If the jobs of full-timers were taken by part-timers who had not previously bothered to register as unemployed, there would be a consequential rise in registered unemployment;

- (c) many women (including single and other women with children, and women caring for elderly parents) do not work part-time as a matter of choice, and their part-time earnings are often an essential part of the family budget.

### International and legal considerations

8 Existing judgments under the Equal Pay Act related to the payment of female part-timers at a lower hourly rate than their full-time male counterparts have emphasised that each case should be judged on its own merits. There is also a risk of claims of indirect discrimination under the Sex Discrimination Act about other conditions such as holidays now regulated by wages councils. The position under European law is even less clear since such discrimination may be contrary to Article 119 of the treaty establishing the European Community, and the Equal Pay Directive. Judgment on a test case is expected shortly. Exclusion would also conflict <sup>with</sup> the general international support for the principle of proportionality, particularly in the ILO, OECD and EC. And, like the exclusion of young people, it would call into question our ratification of ILO Convention 26.

### C. BOUNDARIES OF THE GROUPS

9 Both groups make up a larger proportion of the workforce of wages councils trades than they do of the workforce in the economy as a whole. Most councils already set lower rates for young people, although the minimum age at which the adult rate is payable varies between 18 and 21. The number of young people who would lose protection as a result of exclusion varies according to the definition adopted. But probably between 10-20% of those currently in scope would lose protection if a cut-off point of 21 was used, and about half as many using a cut-off point of 18.

10 Wages councils rarely set rates for part-timers below the proportionate equivalent to the full-time rate. Information on how many of the workers presently covered by wages councils are part-timers is limited, but they certainly constitute a large proportion of the total. Using a 30 hour cut-off point it is likely that between one-third and one-half of all those in wages council trades work part-time.

D. MEANS OF ACHIEVING EXCLUSION

11 The scope of each council is defined in separate Statutory Instruments, normally by reference to groups of industries or occupations. The Wages Councils Act, 1979 gives the Secretary of State for Employment power to vary the scope of councils. Groups no longer considered in need of protection can be removed from scope in the light of the development of collective bargaining machinery and standards of remuneration. Any attempt to use these powers to achieve the type of exclusions considered in this paper would be at high risk of successful challenge on legal grounds.

12 Primary legislation is therefore the only realistic option for achieving exclusion. One possibility might be to amend the definition of 'worker' used in the present Act so as to exclude the groups in question.

Department of Employment

3 April 1981