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Incl Pol

Caxton House Tothill Street London SW1H 9NA

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

Tim Lankester Esq
Private Secretary
10 Downing Street
London SW1

12 2874

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Dear Tim,

WORKING GROUP REPORT ON REVIEW OF LOW PAY AND WAGES COUNCILS

As you requested when we met in the House, I enclose herewith a copy of the Working Group Report. My Secretary of State's letter to Keith Joseph of 26 March (to which the Prime Minister has already responded) refers to this report.

Yours truly

ANDREW HARDMAN
PRIVATE SECRETARY

ELP (79) 9

WORKING GROUP ON THE REVIEW OF LOW PAY AND WAGES COUNCILS

FINAL REPORT

BACKGROUND

1 In October 1979 Ministers agreed that the review which the Department of Employment (DE) was making of policies towards low pay should be widened so as to examine radical options for the future of Wages Councils. The review has been carried out by DE officials together with representatives of the Treasury and the Department of Industry and Health and Social Security; the Department of Trade has also contributed.

2 Our report is divided up as follows:-

paras 3-9 discuss the arguments for and against state intervention to prevent excessively low pay;

paras 9-21 present some facts about levels of low pay; who the low paid are; what industries and occupations they work in; and about Wages Councils;

paras 22-31 introduce the various policy options open to Ministers and discuss the first option - abolishing Wages Councils without replacement;

paras 32-53 examine the option of a general minimum wage in terms of its benefits and disadvantages, costs and operation;

paras 54-60 consider the effects of retaining the Wages Councils system in its broad outlines but improving its efficiency;

paras 61-63 consider retaining Wages Councils but giving them a duty to set rates such as to maximise employment in their industries.

GENERAL CONSIDERATIONS

3 Any consideration of machinery for fixing a minimum pay level - whether by Wages Councils or another mechanism - has to start from a premise about whether there is any need for State intervention to prevent very low pay.

ARGUMENTS IN FAVOUR OF STATUTORY MINIMUM PAY LEVELS

4 The main argument in favour of statutory minimum pay levels is that these help to prevent exploitative low pay. It is argued that there is general acceptance in this country that wages should be determined by collective bargaining, in which what is argued to be a natural inequality of bargaining power between employer and employee is redressed by collective organisation. In unorganised sectors where collective bargaining does not take place, in a perfectly competitive market a fair market price will only emerge if there is perfect competition. But some employees lack access to a competitive market for their labour, or have disadvantages which prevent them from bargaining effectively - eg immigrant workers who may be ill-equipped to bargain with an employer or ignorant of their market value, those whose mobility is limited by family commitments (eg married women), some disabled people, homeworkers. In such circumstances exploitation may take place. It cannot be quantified; only case-by-case examination - if that - could distinguish exploitative low pay from low pay caused by unfavourable market conditions. But it is prima facie likely that exploitation plays a part in some of the examples of very low pay which come to light from time to time, and they are certainly liable to be seen publicly as such.

5 It is also argued that wage and price under-cutting which might be encouraged by the absence of wage regulation in unorganised sectors may have destabilising effects in some industries by allowing firms to compete on labour costs rather than efficiency. This could hold back improvements in productivity, and ultimately lead to a loss of employment.

6 It is sometimes argued that statutory minima help to alleviate poverty. Clearly this may be so in the case of households dependent on a low-paid bread-winner, and also in so far as low pay may in the long term contribute to poverty in old age through its effect on pensions. But there are two countervailing factors. First, the majority of the poor are not in employment. Secondly, statutory minima may add to poverty by reducing employment opportunities. Their contribution is therefore both limited and ambivalent.

7 Again, it is sometimes argued that low wages are at the root of the problem that for low earners with families net earnings in work may be hardly more, or even less, than net benefits when out of work. Clearly, if minimum wages were higher, out-of-work benefits would not overlap them, or would do so much less. But raising relative low pay would not be a cost-effective way of tackling this problem, because it would create pressure for proportionate increases at higher earning levels.

Arguments against statutory minimum pay levels

- 8 Against the fixing of statutory minimum pay levels it is argued that
- a. it is an unwarranted interference with free bargaining in the labour market;
 - b. it runs counter to the policy that pay bargaining should be governed by what the firm can afford (although Wages Council and Board rates are determined by representatives of the industries concerned);
 - c. it may price marginal workers out of a job. At a time when unemployment is high, and expected to remain so, it is more important to maximise the employment opportunities available to low-paid workers than to regulate their wage rates. Unemployment is a more potent cause of poverty than low pay. The great majority of low paid workers are women, many of them second-income earners rather than breadwinners, and having a second income is more important to a low earner's family than the precise level of that income;
 - d. the implementation of statutory minima places an administrative burden on industry and, depending on the type of minimum wage provision may add to Civil Service staff costs.

9 It is also argued that statutory minimum wages are inflationary in that they force employers who would otherwise have paid lower wages to raise their prices and, more particularly, that they exert an influence on the level of settlements for workers not directly affected by the minimum. The extent of this effect will depend on the type of minimum wage chosen. For example, there is no firm evidence that Wages Councils' minimum rates trigger the levels agreed in the non-Council sector (see para 21 below).

FACTS ABOUT LOW PAY

10 By looking at the characteristics and numbers of the low paid, some idea can be gained of whether they are liable to be exploited and whether that is a large problem. It is also useful to have some idea of which industries and jobs are low paying.

11 One definition of low pay is the lowest decile of the earnings distribution of manual men - the level below which 10% of manual men earn. This is the definition used by the Royal Commission on the Distribution of Income and Wealth and by the low pay lobby, who also use - much the same - a level at $\frac{2}{3}$ of average

number of industries with low pay and inadequate collective bargaining (see Appendix 3 for more details). They are designed to operate like normal negotiating bodies, with equal representation of employers and workers, but include independent members who can ensure that a decision is reached. Wages Councils cost about £3.4 million a year to administer. The major part of this cost is attributable to the Wages Inspectorate.

19 Wages Boards and Councils cover some three million workers, mainly in retail distribution, hairdressing, clothing, hotels, catering and agriculture.

Some of the workers within scope of Wages Councils and Boards work in relatively well paid occupations within their industries. Wages Councils and Boards do not cover substantial proportions of low paid workers. For instance about two thirds of persons earning less than £1 per hour in April 1979 appeared not to be covered. Some of those not covered are in low paying industries with strong voluntary collective bargaining (eg NHS ancillaries); many are in low paid occupations in generally well paid industries (low grade office staff, caretakers, cleaners etc.); and some are in industries with low pay and weak collective bargaining not covered by Wages Councils and Boards (some service industries).

20 Employers' organisations tend to favour the continuation of Wages Councils and to be critical of proposals to abolish individual Councils. Trade unions are more ambivalent. DE does occasionally receive requests from employers for the abolition of the entire wages council system. These generally come from individual small employers not affiliated to their industry's employers' association, although by no means all small firms are unaffiliated. Various employers' associations representing small businesses are well represented on wages councils. The setting of statutory minimum rates designed to prevent exploitation is liable on occasions to create problems for some employers; and this is particularly true at present when some small businesses are under severe financial constraints. As a result the Wages Council system tends to be blamed for effects which are more correctly attributable to inflation and other underlying causes.

21 (a) Wages Councils are sometimes criticised as agents of inflation. But analysis does not support this criticism. Wages Councils determine only the statutory minima, which are relatively low (see Appendix 3B). Statistics collected since 1972 show that earnings of workers in Wages Council industries have maintained a broadly constant relationship (Appendix 3c). Wages Council settlements tend to follow rather than precede independent voluntary agreements within the sectors they cover and to be at a slightly lower level. For example in autumn 1979 the multiple food retailers made

a settlement with USDAW before the Retail Food Council reached their settlement at a lower level. There is some evidence to suggest that, in the absence of incomes policies, increases in the statutory minimum rate tend to follow and reflect increases which have already occurred in the general level of earnings in the trade concerned. Wages Council settlements have their primary effect only on those whose earnings are at or close to the statutory minimum. Their effect on those earning more than the minimum is much less certain.

(b) Wages Councils are sometimes criticised on the grounds that they impose a financial burden on employers. Small firms especially complain that they cannot readily raise their prices and therefore cannot afford Wages Council rates. Small firms are, however, well represented on Wages Councils and the volume of complaints is slight compared with the number of employers covered. Another criticism occasionally made is that increases in Wages Council rates jeopardise employment. This is probably true in marginal cases.

POLICY OPTIONS

22 In the remainder of this paper we examine what options the Government might pursue in the low pay field. We have not attempted conclusions. Option 1 is to abolish Wages Councils without replacement. Option 2 is to replace Wages Councils with a minimum wage on the lines of those adopted by the USA, France or Holland (see Appendix 4 for details of overseas practice.) A variant on this - Option 3 - is to set a minimum which applies to Wages Councils industries but is not an entitlement for all workers. Some countries enable the low paid to seek through arbitration a statutory minimum based on rates established by collective bargaining; Option 4 is to replace Wages Councils with a "low pay standard" obtainable by arbitration. Option 5 is to retain Wages Councils and pursue the present policies of streamlining them with more or equal vigour. Option 6 is to retain them but with a statutory duty to aim to create full employment in their industries.

23 These proposals do not cover the Agricultural Wages Boards. But the Boards serve the same purpose as Wages Councils; the same considerations about whether to keep or abolish them apply; and policies on low pay should apply consistently to agriculture as to other industries.

OPTION 1: ABOLISH WAGES COUNCILS WITHOUT REPLACEMENT

24. Abolishing all wages councils without replacement would bring savings of some £3 million, mostly on the cost of the Wages Inspectorate. The main arguments for and against abolition are set out in paras 4 - 9 above.

25. Direct evidence as to what would happen in the event of abolition is limited. There have been studies of the effects of abolishing wages councils in the past, but they cannot be relied on as evidence about what would happen if the remaining councils were abolished. In the case of disbanded councils there has been some confidence that adequate machinery would replace the councils; this cannot be said of the intractable residue. A recent study of six ex-councils established that some national collective bargaining was set up or continued after abolition but in most cases did not cover all the workers covered by the council; that local bargaining did not spread; that negotiated pay levels did not appear to move far from the level that might have been expected from the wages councils; that wage levels in non-organised sectors were often lower than both negotiated pay levels and contemporary wages council rates; that the national bargains were not enforced, and sometimes even companies in membership of bargaining organisations did not know what they should be paying; that payment below the negotiated levels was found on at least a similar scale to underpayments discovered by Wages Inspectors, and frequently in firms which had previously complied with Wages Orders.

26. What are the chances that adequate collective bargaining would take the place of the remaining wages councils? The possibilities need to be examined industry by industry.

(a) Retail Distribution. There are national agreements covering some sectors, eg supermarket and shoe-shop chains. There is also independent company bargaining in some department stores and chains of shops. The rates set by these negotiations are liable to have some influence on wages in high street shops but not elsewhere. Off the high street there is no collective bargaining, and the conditions for collective organisation are very difficult, with very high labour turnover, large proportions of women and part-timers and scattered, small establishments. Some sectors of retail distribution are outside wages councils and have no collective bargaining. Some wage levels in those sectors are very low. In the event of abolition existing collective bargaining could be expected to continue, but there is no evidence to suggest that it would develop further.

(b) Clothing. Wages Councils in clothing adopt rates set by voluntary agreements between strong employers' organisations and the NUTGW. The purpose is to apply those rates to the large sector of the industry which resists organisation. This is the sector in which sweated employment is traditional. There is strong competition on prices, and employers who can use the pool of cheap labour can undercut the larger employers whose labour is organised. The organised employers are very anxious to retain the Wages Councils in order to protect themselves against unfair competition of this kind.

(c) Hotels and Catering. Collective bargaining is limited to a few hotels, mainly those in chains, and to brewery-owned pubs and clubs. In the great majority of restaurants, hotels and cafes there is no collective bargaining. In some holiday centres there is a strong market for hotel and catering workers and moderate union organisation. Elsewhere the conditions for organising labour are very difficult, with much casual and seasonal employment, high labour turnover and small, scattered establishments. In the event of abolition existing collective bargaining could be expected to continue, but there is nothing to suggest that it would be extended.

(d) Hairdressing. No collective bargaining exists here, apart from some department store salons, and there is no prospect of much further development. The Wages Council minimum sets wages, even in the most expensive salons.

(e) Laundries. There is voluntary bargaining in the larger firms, especially in the rental firms. Elsewhere small laundries, like small shops, are unorganised. Workers in launderettes, dry cleaning shops and laundry receiving shops are not covered by Wages Councils: their pay levels are well below Wages Council rates.

(f) Toy Manufacture. There is no national voluntary bargaining, and the employers' organisation, though strong, is not prepared to engage in voluntary bargaining without independent members the clothing industry, there are many small, low paying, transient firms meeting transient fashions. There is also a substantial homeworking sector.

27. It is clear that in all these industries there are substantial sectors which would not be covered by any collective bargaining if there were no Wages Council. What would happen in that event to pay levels? In unorganised firms the likelihood is that wage levels will undergo a relative fall, which might enable job opportunities to rise at the margin, in some cases at a cost to jobs in the organised sector. The levels of underpayment below Wages Council minima (on average 28% of firms; 34% in cafes and restaurants and more in some shops) suggest an inclination to depress wage levels. This is particularly likely at a time of high inflation. It is reasonable to expect therefore that earnings in these industries, which are already at the bottom of the earnings league, will fall in relation to the average. A relative rise in employment in these industries might also be expected.

28. The abolition of the Wages Councils system would undoubtedly meet with severe opposition from some employers. Employers' associations which hold seats on Wages Councils and their individual member firms tend to be very much in favour of Wages Councils, even if they already negotiate with trade unions separately. Organised employers have often strongly resisted the proposed abolition of individual Wages Councils, mainly because it would allow low paying employers who have access to a source of easily exploitable labour such as immigrants to under cut them. Some small firms however, especially those of affiliated to any employers' association, may welcome the abolition of Wages Councils.

29. Another way of putting it is that in the manufacturing industries

covered by Wages Councils at present, enabling employers to pay non-organised workers at market rates well below the prevailing rate would enable them to compete more effectively with firms who engage in collective bargaining, and thus strengthen the market constraints on collective bargaining. This may be seen as helpful from the point of view of the Government's policies on inflation and employment. On the other hand the danger of exploitation is increased.

30. The abolition of Wages Councils without an effective replacement would expose the Government to fire from pressure groups concerned about low pay. The TUC (which, although it prefers effective collective bargaining to Wages Councils, sees a need to protect the low paid) would be likely to oppose wholesale abolition of Councils.

31. Abolition of Wages Councils would leave the UK along amongst the major Western economies without some form of statutory regulation of low pay. It would also appear to give grounds for complaint under the Social Charter of the Council of Europe.

OPTION 2: GENERAL MINIMUM WAGE

Pros and cons

32 The purpose of a general minimum wage would be to establish a minimum entitlement for all workers as a protection against exploitatively low pay. A general minimum would have advantages over Wages Councils. It would cover all workers at risk, including the majority of low paid workers not covered by Wages Councils. It would be clearly aimed at setting a minimum entitlement, not at wage determination through simulated collective bargaining. It should be simple to communicate, and so largely self-enforcing. This would save on the bureaucratic costs and interference of implementing Wages Orders and inspecting firms. It would also mean that workers were more effectively protected against underpayment.

33 Used with care, a general minimum wage policy could have some beneficial economic effects. Raising the price of low paid workers would force some of the least efficient sectors of the economy to raise the productivity of their labour and capital or to close down, so releasing resources for more productive use. Many low paying sectors, however, offer limited scope for productivity gains, and the transfer of resources to more productive sectors might not take place unless the general level of demand were high. Other countries appear to have operated a general minimum wage successfully, without high unemployment costs and with some beneficial effects in productivity. The USA, for instance, appears to have done so with a very low minimum introduced in gentle stages, although the bargaining structure in the USA is rather different to that in Britain.

34 The risks of a general minimum are that it would price low paid workers out of work or that it would have repercussive effects on the wage structure. This latter effect would happen if the minimum rate altered the structure of wages in firms in which there are low paid workers or if it altered relativities between low paid and higher paid workers in different firms to which the higher paid workers were sensitive. There is also the danger that the minimum rate itself would be bid up for egalitarian ends. Some unions are wedded to a minimum wage set at $\frac{2}{3}$ rds of average earnings; if a minimum were introduced at a lower level they would no doubt exert pressure to raise it. Another danger is that a general minimum would prove complicated to set and administer. A national minimum rate would be open to the criticism that, unlike Wages Councils, it would be the Government and not the industry concerned which determined the statutory minimum.

Level

35. The effects of a general minimum would depend crucially on its level. It would be set below or at the level of the lowest rates set in collective bargaining. If it were higher than that, it would interfere with rates set in balanced negotiation by organised labour with employers; rates which we have to assume are a fair value for that labour. This means setting the minimum no higher than £42 a week (at mid-1979), the lowest minimum rate set by collective bargaining or by Wages Councils operating like normal negotiating bodies. At the lower end, it could be set above the level yielding - with the addition of state benefits - an income equal to income from supplementary benefits. This would make sense both in terms of asserting a positive incentive to work and of ensuring that income from work yielded enough money to live on.

36. It is almost impossible to establish a low minimum rate which yields a total net income substantially above supplementary benefit for large families with 4 or more children. The reason is that the effects of low wages can be cushioned by means tested benefits. Generally speaking the smaller the wage and the larger the family the more help is available. This means that a family man with 4 children who claims all available benefits can have a broadly similar total net income whether his gross earnings are as low as £37 or as high as £69 or £70. And this total net income will not be a great deal more than he would get on supplementary benefit. For families with three or less children a minimum wage of £38 or more would yield a total income significantly above SB. If the Government wished, then, to set a general minimum wage below the level set by collective bargaining, and significantly above SB (for all but the largest families), it should set it within a range of £38 - £42 a week in terms of mid-1979 levels. We assume that it might be set at £40 a week or £1 an hour. There were roughly 690,000 adults earning less than this in April 1979; 340,000 were part-time workers.

37. Whatever was chosen, it would be below the level of some Wages Council minimum rates. It would therefore have the effect of depressing wages in industries in which Wages Councils with higher minimum rates were abolished and not replaced by voluntary collective bargaining.

Repercussions

38. If all workers paid less than £1 an hour were to have their pay raised to £1, about 0.13% would be added to the total wage bill. The indirect costs of a minimum wage are uncertain as it is difficult to forecast the reaction of higher paid workers to a fall in previous differentials and relativities. The number of workers directly covered by the proposed minimum wage is small. It

is possible therefore that the impact of the minimum wage on differentials will only be acute in a few industries, and it is only in these industries that higher paid workers will attempt to restore previous wage structures.

39. If we assume that it is only in industries where over 30% of the workforce are directly affected by the minimum wage that higher paid workers restore previous proportionate differentials, then up to a further 1.5m workers may have their pay raised as a result of the minimum wage. If we further assume that higher paid workers are successful in restoring previous proportionate relativities and differentials then the indirect costs could add about 0.8% to the wages and salaries bill.

40. A more extreme estimate of the indirect costs can be obtained if it is assumed that the introduction of a minimum wage leads to no long term overall improvement in the relative position of the low paid, but that instead, because of the pressure by higher paid workers to restore previous differentials, the whole wages structure is raised so that previous relativities are restored. Given the relatively low level of the proposed minimum rate and the small number of workers directly affected, such an extensive repercussive effect is unlikely to happen, but this scenario is worth casting as it does give the maximum costs of a minimum wage. With this assumption indirect costs would add 9.5% to the wages bill.

41. In practice it is likely that the indirect costs of a minimum wage will fall somewhere towards the lower estimate. Low paid workers do not generally belong to well developed wage structures; there are no collectively bargained rates for adults lower than £40 per week. Moreover, higher paid workers do not generally make comparisons with the low paid, although this is not to say that they would not ask for multiples of a national minimum wage.

42. The method chosen for fixing and reviewing the minimum could play an important part in minimising repercussions. The aim should be to remove the fixing process as far as possible from the collective bargaining arena, so as to lessen the knock-on effects of implementing the minimum wage. This is achieved in the USA, for example, by reserving the fixing of the minimum to central government and (initially at least) by limiting its application to a small proportion of the workforce. The minimum should be increased at least annually, otherwise the percentage increase would be very large and could encourage high percentage increases for others. The annual change in the minimum would be a problem, unless the minimum wage were indexed, because it would oblige the Government to take a view about the correct level of the minimum and expose the Government to pressure to raise the minimum in relation to wages generally.

43. The employment consequences of raising low pay must also be taken into account. If labour costs are increased in times of recession, job opportunities will inevitably be reduced, particularly for young people and unskilled workers. We have attempted to estimate the employment effects of a minimum wage. A major problem is that few reliable estimates of employment elasticities with respect to real wage increases are available. We estimate, however, that with a minimum rate of £1, direct employment losses are unlikely to exceed 50,000 jobs.*

* A calculation of this kind involves many assumptions, and the estimated number of jobs lost is sensitive to the assumptions adopted, so that this figure is no more than a guide with a particular set of assumptions. The main assumptions are:-

- (1) a marginal employment elasticity of either -0.1 or -0.2. A marginal employment elasticity of -0.1 means that a 10% increase in real wages will reduce employment by 1%; if the elasticity is -0.2, the loss of employment will be 2%.
- (ii) that wages of workers affected by the minimum wage rise on average by 12% (an addition of 0.8% to the total wages and salaries bill).
- (iii) that 2.1 million workers receive an increase of pay directly or indirectly as a result of the minimum wage.

With an employment elasticity of -0.1 the loss of jobs is 25,000; for an elasticity of -0.2 the loss of jobs is 50,000. Though the empirical evidence on employment elasticities gives conflicting estimates it is unlikely to be higher than -0.2.

Form of a general minimum

44. The aim would be to set a minimum in simple terms so that workers would easily understand and assert their rights. Costly administration would then not be necessary. Starting from the simple idea of minimum gross pay entitlement for an hour's work, what complications would have to be added?

The following problems need to be considered:-

- overtime and premium rates for working at abnormal times. The only simple treatment would be to regard overtime hours as the same as normal hours, with the same minimum entitlement. To specify a premium rate (as does the US legislation - time and $\frac{1}{2}$) would necessitate defining normal hours, and would add to the complexity and repercussions.
- pieceworkers would receive a minimum of £1 for an hour's work. Homeworkers present a problem because they tend to work more slowly than in-workers and because their work cannot easily be timed. If they had to be paid at the same rate as in-workers, homeworking opportunities might be curtailed, and the problem of establishing what hours they had in fact worked would be insoluble. There are three possible ways dealing with homeworkers, all of which are open to objections:-
 - (a) exclude them from the minimum wage. This might have the effect of changing the employment structure in low paying industries: employers would be encouraged to transfer more and more of their work to homeworkers.
 - (b) adopt the wages councils system of a piece work basis time rate, whereby employers have to set a piece rate which would yield at least the minimum time rate to an ordinary worker. This system would be impossible to enforce without wages inspection - indeed even under the present system the Wages Inspectorate finds effective enforcement very difficult.

- (c) set a lower minimum time rate (say, half of the normal minimum wage) for homeworkers. This would penalise efficient homeworkers and might encourage employers to use homeworkers rather than employ in-workers. In addition, there remains the problem of timing work to be done at home.
- payments in kind form an important part of remuneration for some low paid workers, eg. in agriculture. They would have to be included in the minimum pay. Their evaluation could however be a subject of dispute, and give rise to the need for local adjudication.
 - tips. Some low paid workers - waiters, hairdressers - receive substantial tips, and their basic pay reflects that extra source of earnings. The choice is between ignoring the tips (in which case many employers would no doubt levy a service charge and pass it on to their staff) or, as the Wages Councils do, abating the minimum for service staff, making for a complex minimum.
 - holiday entitlements. There are two options: first, to ignore holidays. This would deny low paid workers an entitlement to holidays with pay which is almost universally given to workers. Second, to give an entitlement to a minimum number of hours of paid holiday accrued over a year or a lesser period, paid at the minimum rate. Those who work less than a normal number of hours a week would be entitled to a pro rata proportion of the holiday entitlement. This would be difficult to enforce and to calculate. But the difficulties would be minimised if the entitlement were restricted to employees who work 16 hours or more per week (8 hours after five years). Such employees are already entitled under the Employment Protection Act to a written statement of their main terms of employment (including hours, rate of remuneration and data of commencing work). These documents should provide adequate evidence for calculating an entitlement. Workers who left part way through the year would similarly get a pro rata entitlement (after a minimum period of service). Unless employers were asked to keep special records, disputes could arise over the

over the date employment was terminated.

- young people. The general minimum would be a minimum for adults. The age at which adult rates are paid varies between industries between 18 and 21. The safest course would be to define adulthood as being 21. Juvenile rates could be set at a percentage of the adult rate without adding much to the complexity of the order.

- disabled people. Under the Wages Council system employers can apply for a permit to pay disabled time workers at a reduced rate. This seems unnecessary for a general minimum.

45. To summarise, a simple general minimum could be framed which entitled workers to (say) £1 per hour from the age of 21; with (say) 10% less for each year below 21; payable for all hours worked; whether from piecework or time work; with payments in kind included at a reasonable value; tips excluded; and no statutory holiday entitlement. This would give rather limited entitlement to those paid at the minimum, compared to workers covered by Wages Orders or collective agreements. These are generally entitled to overtime and other premia, limited hours of work and holidays with pay, which a worker on the minimum would not be entitled to. There would **still be** problems of adjudication over piecework, especially for homeworkers and payments in kind. The problem could be cut down if homeworkers were excluded (though this could have undesirable effects) and if there were a **standard** 'price list' for payments in kind.

Enforcing the minimum

46. The general minimum would be a legal entitlement. It could be enforced through civil courts (as at present with breaches of Wages Orders) or through tribunals. Industrial Tribunals may be better suited to dealing with a relatively simple entitlement such as a minimum hourly rate than civil courts.

47. A simple minimum ought to be a largely self enforcing, and to give rise to few hearings which could not be settled out of court. If 1% of those paid below £1 an hour continued to be underpaid and were to complain, they would add about 15% to the load on industrial tribunals, at a cost of about £0.7 million and 70 extra staff. There would have to be a corps of conciliation officers to respond to complaints and filter out vexatious or easily settled ones. Assuming a similar proportion of conciliators to cases as with unfair dismissal cases (which is unlikely) there would be 30 extra conciliation officers at a cost of £0.3 million.

VARIANTS ON A GENERAL MINIMUM

OPTION 3: LIMITED MINIMUM WAGE

48. The repercussive effects of a minimum rate would be held down if it were made an entitlement of only limited categories of worker. Only workers at most risk might be covered. eg women workers, workers in service industries or workers in Wages Council industries. The last of these possibilities is the most readily defensible limitation. Other workers would remain unprotected, though the existence of a widely known statutory minimum might act to prevent excessively low pay in uncovered industries.

49. The effect would be to prevent any extra costs to employers as would be incurred if a general minimum were set. The administrative costs would also be sharply reduced to roughly half the current cost of Wages Councils. A simple minimum could then be easily extended to non-Wages Council industries in need of protection.

50. Three problems would be apparent. First, the boundaries of the Wages Council industries are obscure and cannot easily be defined. It might, however, be possible to simplify the definition, for instance by defining scope in terms of the primary activity of the firm. Second, the quality of protection for Wages Council workers would be sharply reduced. Workers entitled to minima well above £40 now would be left with no entitlement, and all workers would be left without the more detailed entitlements to holidays, premia etc elaborated in Wages Orders. One temporary expedient might be to leave the existing Wages Orders in force until such time as the single minimum overtook them. The third problem would be to justify the limited scope of the minimum. Whereas the Wages Council machinery is intended to stand in for inadequate bargaining arrangements and can only apply to workers in industries without adequate bargaining, there are no such grounds for limiting the scope of a minimum set without the semblance of bargaining.

OPTION 4: "LOW PAY STANDARD"

51. Another variant could be a "low pay standard" set by Government obtainable through arbitration. There would not be a legal entitlement to a minimum, but workers whose earnings fell below it would be able to apply to an arbitration body. The arbitrators would be empowered to make awards bringing their earnings

towards or up to the standard depending on the market circumstances of the firm concerned and the value of the jobs concerned. The award would then be a legal entitlement.

52. The advantage of this system is that it would be more flexible than a national minimum. Employers would not be compelled to pay the minimum if they convinced the arbitration body that they could not afford to do so. At the same time, it would be simple and well known so that employers who could afford to pay would be under some pressure to do so. Administrative costs would be very small.

53. It would not, however, be an effective protection for low paid workers against an employer determined not to pay. Low paid workers are unlikely to have the enterprise to go to an arbitration body and present arguments about the economic circumstances of their work. Schedule 11 of the EP Act (which this provision would in many respects resemble) was not very effective as an instrument for dealing with pockets of low pay. The arbitration mechanism would be too cumbersome to adjudicate on more than a small portion of the low paid. The case for raising low pay would have to be considered establishment by establishment, and year by year.

OPTION 5: IMPROVE THE WAGES COUNCILS SYSTEM

4. Wages councils could be retained with a variety of policies for reform. At the least present policies for rationalising the councils, for encouraging them to operate as free bargaining institutions and for simplifying Wages Orders would be pursued. In the past 10 years 15 wages councils covering 600,000 workers have been abolished on the grounds that the industries concerned were able to maintain adequate machinery for fixing pay at a reasonable level. There is little scope for abolishing any major councils in the near future unless different criteria for abolition were applied. There have also been some mergers, for instance bringing 9 retail distribution Councils into two Councils in 1979. Proposals for merging some councils in the clothing industry have been put to Ministers. It may also be possible on current policies to exclude some larger employers, eg multiple food retailers, from the scope of wages councils.

55. There is, however, the possibility of further rationalisation of the structure of the remaining councils, principally by merging related councils so reducing the number of bodies. The immediate advantages include:-

- a some reduction in total cost of the councils and their secretariat, although this is already relatively small;
- b the likelihood of more professional negotiating from the respective organisations in the relatively more influential bodies;
- c a reduction in the number of different Wages Orders;
- d a reduction in the problems of defining scope at the margins.

This possibility is subject to the reservation that Ministers would have to be prepared to override objections (see para 58 below).

56. Amalgamated councils would have a broader coverage. This could result in less detailed wages orders with consequent indirect advantages. Above all, the orders would be easier for both employers and workers to understand, so that a greater measure of self-enforcement could be expected. At present many employers underpay because of genuine mistakes. There would be a reduction in the volume of complaints and an easing of pressure on the Inspectorate. This should in principle make possible some reduction in the cost of the Inspectorate, although this cannot be quantified.

Programme of Amalgamations

57. A determined programme of rationalisation could reduce the number of councils to about one-third of their present number. This would be done by amalgamations affecting almost all councils, with major reorganisations amongst the councils covering the clothing industry, hotels and catering. A few minor councils might be abolished or greatly reduced in coverage. There would be a few medium-sized councils (eg the Toy and Laundry councils) for which there are no immediate prospects of abolition or merger. Appendix 5 shows how the programme might work.

58. A rationalisation programme of this scale would almost certainly meet with strong objections from employers' associations represented on wages councils. In the past many employers' associations have objected to mergers on the grounds that a new broader based council would not be so sensitive to their particular interests. Small employers' associations could be expected to put up an even stronger resistance, since some of the smaller employers' organisations at present directly represented on the council could not be accommodated on a merged council unless it were of unwieldy size. Under current legislation the Secretary of State is obliged to refer changes of the kinds proposed to ACAS for investigation if there are any objections, and in the past has referred proposed changes to ACAS anyway.

59 The policy advocated here should simplify the wages councils system, but would not reduce its scope significantly. There may indeed be pressure for extending the system to the few industries which have widespread low pay and little or no collective bargaining, yet no wages council. Two of these areas, launderettes and dry cleaning and contract cleaning, were referred to ACAS for investigation in June 1977 and February 1978 respectively with a view to being brought within the scope of a wages council. ACAS's reports on these two areas are expected to be completed by the spring and summer respectively.

Simplifying Wages Orders

60 Wages Orders are often criticised for being too complicated: their language is archaic; they often set a large number of rates; the scope of the Order is often difficult to interpret. If they could be simplified, employers would find it easier to comply, workers could more easily know and claim their rights and fewer Inspectors would be needed. The Department of Employment has taken the lead in persuading wages councils, who are entirely responsible for drafting the Orders, to review them with a view to simplification. (There is no way of compelling councils to simplify their Orders without primary legislation). Amalgamation would however provide a further opportunity for review. Some councils have already made good progress which should provide models for others. Nevertheless, the Wages Orders must be drafted in legal terms and this makes it difficult for the average person to use them as a working document. The DE has therefore started to prepare and publish explanatory guidance. A leaflet has been published for Hairdressing and a second on Toy Manufacturing will be published very shortly. A programme will be maintained, depending upon resources available. If the number of councils were reduced through amalgamations, the preparation and maintenance of such guidance would be facilitated.

OPTION 6: GIVING WAGES COUNCILS A DUTY TO MAXIMISE EMPLOYMENT

61 It has been seen that the main arguments against the wages council system concern the danger that it reduces employment opportunities for low paid workers. An alternative to abolition would therefore be to try to reduce this danger. This could be done by giving the councils an over-riding duty to ensure that the wages they set are such as to maximise employment in the relevant industries. Thus if there was unsatisfied demand for labour in a Wages Council industry, the council would be expected to increase wages so as to attract people into it. If there was unemployment in it, their duty would be to ensure that wages were not increased at a rate which inhibited the growth of employment.

62 Councils could be required under the existing legislation to consider and report on the effects of wage levels on employment in their industries, but new legislation would be necessary to create a statutory duty for them to seek, in setting minima, to maximise employment.

63. Effects on profitability, and therefore on employment levels, naturally feature strongly among the arguments usually advanced by the employer's side on wages councils. There is no reason to doubt that the councils (and in particular the independent members) take full account of such arguments, so they need of course to weigh them against other factors. It is, of course, very difficult to establish precisely what effect a particular statutory minimum will have on employment in the industry, and still more difficult to predict the effect of variations one way or the other in a proposed new minimum. In practice therefore if the wages councils were given this new statutory duty they could probably do little more than observe trends in employment in their industries and use them as indicators of the direction in which real wages needed to be moved for the purpose of maximising employment. Consideration would have to be given to the additional back-up and research effort they would need in order to carry out such a duty, and also whether the additional administrative expense would be cost effective in terms of its actual effects on the minima set.

Statistical Methods

1. The number of low paid full time adult workers (para 11) is obtained by grossing up the number of workers found in the NES sample whose pay was not affected by absence with earnings of less than 140 pence per hour. This will be an underestimate of the total number of low paid workers as it excludes workers whose pay was affected by absence and those for whom no hourly earnings can be calculated. It would be unwise to assign to these workers the same hourly earnings distribution as that for workers whose pay was not affected by absence. About 3 million adult workers are excluded : what proportion of these earn less than 140 pence per hour is not known.

2. There are two other reasons why the NES may not provide a reliable estimates of the number of full time low paid workers. Firstly, the number of adult workers earning less than 140 pence per hour is relatively small, so that one is looking at the extreme range of the hourly earnings distribution. Because of the small numbers in this range - the NES sample picks up only 406 adult men earning less than 100 pence per hour from a total sample of 70,000 adult men - classification errors due to coding or to inaccurate questionnaire responses could result in a significant distortion of the estimated number of low paid workers. Secondly, it is believed that the NES may underestimate the number of low paid workers because it is thought that some employers of low paid workers do not return the NES questionnaire. There is no way of knowing the size of this underestimate.

3. Our estimates of the numbers of low paid part-time workers are uncertain, and are liable to be underestimates. The numbers are difficult to estimate because the NES excludes workers outside the PAYE system, those most likely to be low paid.

4. In para 15, pay for catering and agricultural workers includes the value of accommodation and meals provided by the employer, but excludes tips and other benefits in kind.

ESTD. NOS. OF FULL-TIME ADULT WORKERS WITH GROSS HOURLY EARNINGS (EXCL. OVERTIME PAY AND HOURS) BELOW THE LOWEST DECILE:
APRIL 1979

Hourly earnings under:-	Full-time men	Full-time women
50p	5,000	4,000
60	8,000	10,000
65	10,000	15,000
70	11,000	22,000
75	16,000	32,000
80	21,000	48,000
85	26,000	71,000
90	30,000	106,000
95	38,000	160,000
100	49,000	222,000
110	96,000	483,000
120	188,000	855,000
130	366,000	1256,000
140	637,000	1662,000

SOURCE: NES 1979

WAGES COUNCILS

Coverage

1. There are 34 Wages Councils covering some 2.7 million workers. They cover retail distribution (1.13m workers), hotels and catering (0.88m), clothing manufacture (0.37m), hairdressers (0.12m) and a variety of small manufacturing and service sectors. In addition the Agricultural Wages Boards cover some 0.3m workers.
2. Wages Councils do not cover about two thirds of people on low earnings (eg they do not cover two thirds of people earning the equivalent of £1 an hour in April 1979). Many of the low paid not covered are either in service industries with general low pay (and in some cases weak bargaining machinery) or in low paying occupations (low grade office jobs in the main) in industries with generally high pay.

Purpose and constitution

3. Under the Wages Councils Act 1979 the function of Wages Councils is "the effective regulation of remuneration" in industries where there is inadequate collective bargaining machinery and low pay. Although it is not mentioned in the Act, it was always expected that Wages Councils would provide experience for employers and workers in the process of wage negotiation and lead to voluntary collective bargaining arrangements which would supersede the Councils.
4. Wages Councils, like normal joint negotiating bodies, have equal numbers of employer and worker representatives, appointed by employers' organisations and trade unions. But they also have three independent members who may vote with one side or the other if agreement is not reached. Section 14 of the Wages Councils Act empowers Councils to make orders fixing statutory minimum remuneration, holidays and holiday pay and any other terms and conditions of employment. So far they have only fixed minimum remuneration, holidays and holiday pay.

Statutory minimum pay

5. Wages Councils minimum rates (see Appendix 3B) are always to be found near the bottom of the league table of national minimum rates. Wages Councils industries tend to have higher proportions of low paid workers than do industries with voluntary national agreements. And low pay levels are lower in Wages

Councils industries than in other industries: the lowest decile of earnings among Wages Council employees is considerably lower than that for all employees.

Enforcement

6. Wages Council minimum rates are enforced by the Wages Inspectorate. In January 1980 the Wages Inspectorate had 325 staff, and cost around £2.5 million per annum. In 1978 it was able to visit only 8.2% of the establishments on its lists. 1979 saw the introduction of "indirect" inspection by questionnaire. The Inspectorate now aims to contact establishments every 6 years (about twice its previous rate) by means of either a visit or a questionnaire. Questionnaires are used for the hairdressing and retail trades, where the Wages Orders are relatively straightforward, and are followed up by a visit from an Inspector where the returned questionnaire indicates underpayment of the statutory minima and in a small proportion of other cases.

7. The Inspectorate can prosecute employers who underpay but does not generally do so for a first offence. In 1978 criminal proceedings were taken against 16 employers and civil proceedings against another 1 although over 10,000 were asked to pay arrears.

Statutory Joint Industrial Councils (SJICs)

8. There is statutory provision for wages councils to be converted, after consultation and investigation, into SJICs, whose determinations would have statutory force and would be enforced by the Wages Inspectorate but which lack independent members. So far no SJICs have been created. As far as the matters considered in this report are concerned, there is little or no difference between the two. If wages councils are retained conversion to SJIC should continue to be considered whenever appropriate, as a desirable step towards voluntary collective bargaining; but such a change does not in itself affect the arguments for and against retention.

SJICs

Estd. no. of workers Typical weekly minimum Operative date
rate (adult)

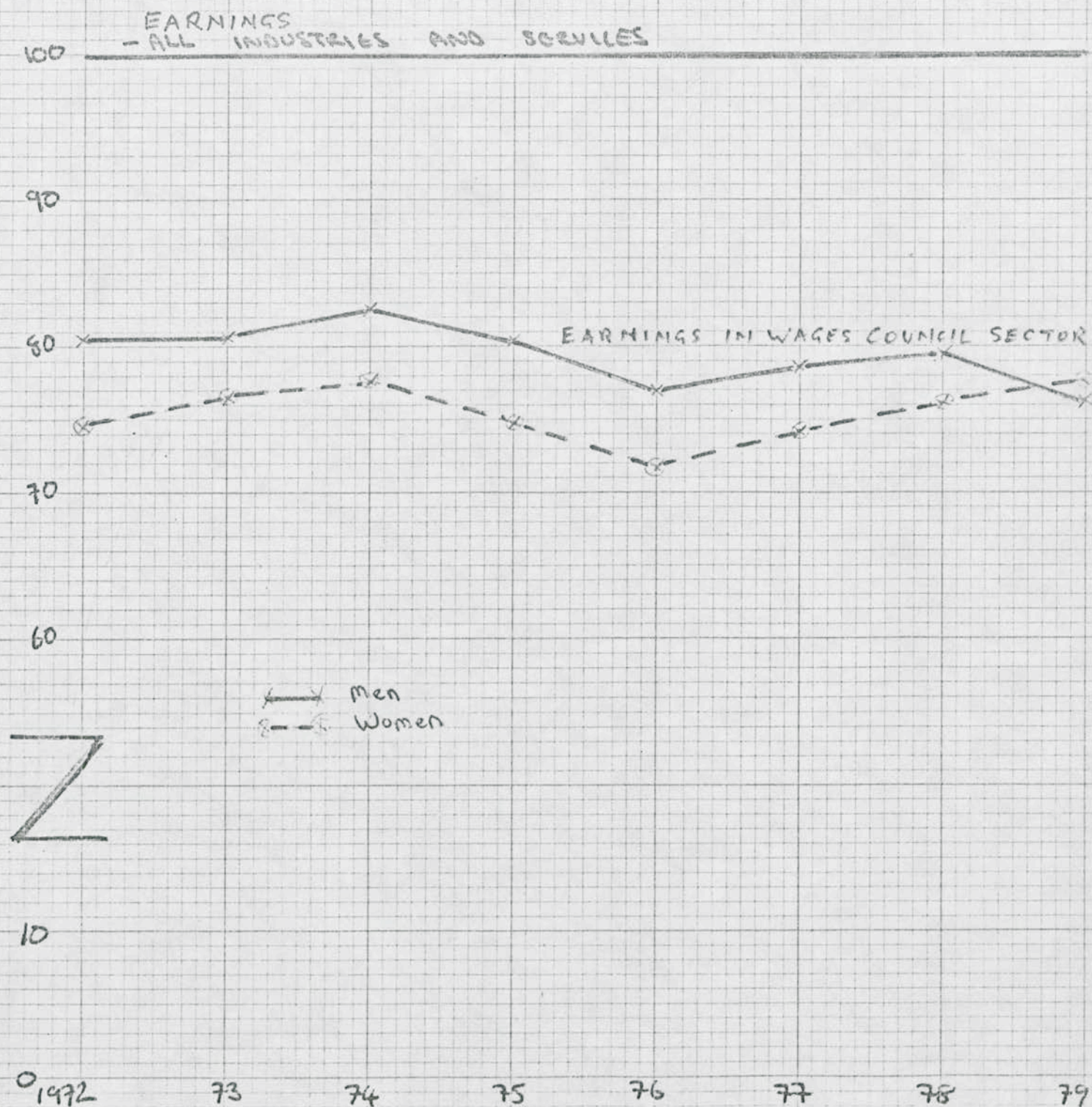
Fur	7,000		27.50	Dec 1976
General Waste Matrls Reclamation	20,000	All workers	43.20	July 1979
Hairdressing Undertakings	125,000	(Qualified hairdresser shampooist	47.00 31.00)	Dec 1979
Laundry	55,000	Gen wkr	47.50	Feb 1980
Ostrich & Fancy Feather and Artificial Flowers	750	Gen wkr	45.00	Oct 1979
Perambulators & Invalid Carriage	3,000	Unskilled	46.00	April 1979
Pin, Hook & Eye and Snap Fastener	500	Gen wkr	52.50	Nov 1979
Toy Manufacture	30,000	Gen wkr	40.00	June 1979

269,750

*Proposal, subject to confirmation

**Main provincial areas

AVERAGE GROSS WEEKLY EARNINGS IN THE WAGES COUNCIL SECTOR (ALL INDUSTRIES AND SERVICES = 100)



Overseas ExperienceUSA

1. A national minimum wage was introduced in 1938 which covered about 43% of the non-supervisory workforce. It has gradually been extended and now covers over 84%. It has also been gradually increased: even allowing for inflation it has increased by almost two and a half times since its introduction. However, the ratio of the minimum wage to average hourly earnings in manufacturing has remained relatively constant at about one half over the years. The UK Dept. of Labour sees this as an indication that the minimum wage, rather than being inflationary, has managed to keep pace relative to other wages rather than lead them or push them up.
 2. Employers can apply for exemption certificates enabling them to pay certain workers (e.g. apprentices, the disabled) less than the minimum wage. Enforcement of the wage depends on the underpaid worker complaining to the Dept. of Labour. The Dept. aims to obtain compliance with the law without litigation as far as possible.
 3. Since January 1 1979 the minimum wage has been \$2.90 an hour (about £1.40), which is about 48.6% of average earnings.
-

Holland

4. Holland currently has a national minimum wage of 413.10 per week (about £103) for all workers aged 23 - 64. There are separate rates for workers aged 16 - 22. In October 1978 the minimum wage for adults was about 70% of average weekly earnings.
 5. The minimum wage is increased twice yearly on the basis of a number of specified collective agreements. As virtually all collective agreements are indexed to prices, the national minimum wage is bound to rise at least as fast as prices. The minimum wage has had adverse effects on employment, and since 1976 the Dutch Government has operated special policies designed to minimise these effects.
-

6. France has had a guaranteed minimum wage scheme since 1952. The present national minimum wage (SMIC) began in 1970.

7. Automatic adjustment takes place whenever the index of retail prices rises by more than 2% above the point at which the SMIC was last raised. The French Government is also required by law to review the SMIC at least once a year. This revision must reflect at least 50% of the average increase in purchasing power over the period in question. However the Government has discretionary power to raise the SMIC by more than this after taking the advice of the Commission Superieure des Conventions Collectives, a body representing employers and trade unions.

8. It is illegal to use the SMIC as a basis for regulating higher salaries, though in practice this does happen to a certain extent.

9. At present the SMIC is about 45% of average earnings. Failure by employers to comply with the SMIC may render them liable to large fines. There are special provisions for young people, agricultural workers and workers who receive food and board. Domestic workers and concierges are excluded from the SMIC.

10. Other OECD countries with a national minimum wage are Belgium, Canada and Italy.

11. West Germany makes provision of a different sort for the non-unionised low paid. The terms and conditions in voluntary collective agreements are extended by law to workers in the same or closely related industries who are not covered by the agreements.

PROGRAMME OF WAGES COUNCIL AMALGAMATIONS

Procedure for merging or abolishing a Wages Council

1 The Secretary of State for Employment may at any time by order abolish a Wages Council or vary its field of operation. Before deciding whether to do so he can if he wishes refer the question of abolition or variation to ACAS for inquiry and advice: in the past he has always done so. Under the current legislation the Secretary of State has the alternative of publishing a notice of intention to make an order (eg abolishing a Council or merging it with others) without previous reference to ACAS, but if valid objections are made (as they have been in the past) he must still refer the draft order with the objections to ACAS. The Secretary of State must consider any ACAS recommendation but is not bound to follow it. In any case he may make an order if he thinks fit either in terms of the draft or with modifications.

Large amalgamations

2 Ministers have agreed to consult on proposals to amalgamate the following seven Councils:-

Dressmaking and Women's Light Clothing (E and W)
Dressmaking and Women's Light Clothing (Scotland)
Ready-made and Wholesale Bespoke Tailoring
Wholesale Mantle and Costume
Rubberproofed Garment Making
Corset
Shirt Making

3 Once this has been achieved, consideration could be given to adding some or all of the workers at present covered by some of the remaining allied Councils, eg Retail Bespoke Tailoring and Hat, Cap and Millinery.

4 It might be possible to make further amalgamations eg in the retail trades and in hotels and catering. But it would be difficult to form the merged Councils in such a way that all the numerous separate interests felt that they were properly represented.

Small Amalgamations

5 It might be possible to merge some smaller Councils in sectors such as aerated waters, waste reclamation and miscellaneous textiles.

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