



Llywodraeth Cymru
Welsh Government

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The Agricultural Wages Order 2024

We are seeking your views on changes to the Agricultural Wages Order 2023.

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Contents

[About](#)

[Background](#)

[Section 1: minimum rates of pay](#)

[Section 2: Agricultural Wages Order Simplification](#)

[Section 3: Minimum rates of pay for overtime](#)

[Section 4: other provisions of the Agricultural Wages Order](#)

[Consultation questions](#)

[How to respond](#)

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About

The independent Agricultural Advisory Panel for Wales' consultation to seek views on the Agricultural Wales Order 2024, containing changes minimum wage rates and allowances and other conditions of employment.

This document seeks your views on the Agricultural Advisory Panel for Wales's proposed changes to the current Agricultural Wages Order arrangements to apply from 1 April 2024. The proposals were made at the Panel's meeting on 4/5 September 2023 and are listed below.

For further information regarding the Agricultural Advisory Panel for Wales including minutes of meetings and reports please go to:

<https://www.gov.wales/agricultural-advisory-panel-wales>

Background

The Agricultural Advisory Panel for Wales is an independent body that advises Welsh Ministers on the Agricultural Minimum Wage arrangements and terms and conditions of employment for agricultural workers in Wales. It also promotes careers in agriculture, the development of an appropriately skilled workforce and provides additional advice to Ministers as required.

The Panel is made up of representatives from the Farmers Union of Wales, National Farmers Union Cymru, Unite the Union and three independent members.

Annually, the Panel review the Agricultural Minimum Wage (AMW) arrangements, and the other provisions of the Agricultural Wages Order (AWO).

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In arriving at their decisions, the Panel draw on their expertise and consideration of the economic conditions in the industry, including the lasting impact of EU Exit, the Covid-19 Pandemic and more recently the invasion of Ukraine. The UK's departure from the European Union has caused uncertainty for the agricultural sector, including changes in trade agreements and regulations as well as immigration policies contributing to concerns around the availability of seasonal and skilled labour. Lack of certainty around future financial support schemes and payment rates is also impacting on farm business' ability to plan effectively.

The **June Agricultural Survey** estimates, the number of people employed on farms as of 1 June 2022 was 11,500. This represents a fall of 8% since 2021. This trend was seen in both regular workers (full-time and part-time) and casual workers.

Some work (e.g. shearing and harvesting) will tend to be carried out by contractors who are not included in the Agricultural Survey labour count. The main reasons for this are that they are self-employed and are often farmers themselves (and thus already included in the survey estimate).

Russia's war on Ukraine has an impact on costs of inputs, global food and feed availability and prices – whether as a direct impact or due to sanctions.

Agricultural and food prices (Gov.UK) are substantially higher than they were two years ago. At the same time, cost of living pressures continue to affect workers as well as businesses especially those workers on a low income and living in rural areas where housing, transport, food, heating, and services costs tend to be higher. Sources: Rural Poverty in Wales, Emyr Williams and Rosaleen Doyle, Public Policy Institute for Wales, May 2016 and ONS Index of Private Housing Rental Prices (IPHRP), published August 2023.

The Panel consult on their proposals before submitting them in draft to Welsh Ministers for consideration. Once passed by the Senedd, the AWO has legal authority in Wales.

The Panel also consider legal requirements (such as the National Minimum Wage (NMW) and National Living Wage (NLW)). This ensures agricultural workers receive fair, regularly reviewed, wages, allowances and terms of employment, further contributing to the Welsh Government's tackling poverty agenda by safeguarding household incomes, especially within rural communities.

The Welsh Government sponsorship division provides the secretariat function for the Panel, and an external law firm advises the Panel on any legal issues arising and legal compliance generally. They also prepare the draft AWOs which give effect to the decisions of the Panel.

Section 1: minimum rates of pay

The Panel considered the minimum rates of pay which should apply to each of the grades from April 2024. The Farming Unions and Unite both propose minimum AMW rates and changes to the AWO which are based on the views of their members, research and statistics incorporating the issues facing the sector and its workforce as outlined in the background to this consultation.

After a number of rounds of intense negotiations, a compromise position was reached with the result that the proposal within this consultation for the 2024 AWO was unanimously agreed by all members of the Panel.

The current minimum rates for the relevant grades and allowances are set out in Table 1.

Table 1

Category of worker	Current NMW / NLW rate	Current Agri Minimum Wage rate
A1 – Agricultural development worker (16-17 years)	£5.28	£5.28
A2 – Agricultural development worker (18-20 years)	£7.49	£7.49
A3 – Agricultural development worker (21-22 years)	£10.18	£10.23
A4 – Agricultural development worker (23+ years)	£10.42	£10.47
B1 – Agricultural worker (16-17 years)	£5.28	£5.28
B2 – Agricultural worker (18-20 years)	£7.49	£7.49
B3 – Agricultural worker (21-22 years)	£10.23	£10.23
B4 – Agricultural worker (23 years +)	£10.42	£10.74
C – Agricultural advanced worker	£10.42	£11.07
D – Senior agricultural worker	£10.42	£12.14
E – Agricultural manager	£10.42	£13.32

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Apprentice Year 1	£5.28	£5.28
Apprentice Year 2 and beyond (16-17 years)	£5.28	£5.28
Apprentice Year 2 and beyond (18-20 years)	£7.49	£7.49
Apprentice Year 2 and beyond (21-22 years)	£10.18	£10.23
Apprentice Year 2 and beyond (23+ years)	£10.42	£10.42
Dog Allowance (per dog per week)		£9.36
Night Work Allowance		£1.78
Birth & Adoption Grant		£73.60
Accommodation Offset Allowance (House) (per week)		£1.65
Accommodation Offset Allowance (Other Accommodation) (per day)		£5.29

The proposed increases for the relevant grades and allowances are set out in **Table 2**.

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Table 2

Category of worker

A1 – Agricultural development worker (16-17 years)	NMW +2.5%
A2 – Agricultural development worker (18-20 years)	NMW +2.5%
A3 – Agricultural development worker (21-22 years)	NLW +2.5%
A4 – Agricultural development worker (23+ years)	NLW +2.5%
B1 – Agricultural worker (16-17 years)	NMW +2.5%
B2 – Agricultural worker (18-20 years)	NMW +2.5%
B3 – Agricultural worker (21-22 years)	NLW +2.5%
B4 – Agricultural worker (23 years +)	NLW +3.1%
C – Agricultural advanced worker	NLW +1% plus current differentials (6.193%)
D – Senior agricultural worker	NLW +1% plus current differentials (16.515%)
E – Agricultural manager	NLW +1% plus current differentials (27.864%)

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Apprentice Year 1	NMW
Apprentice Year 2 and beyond (16-17 years)	NMW
Apprentice Year 2 and beyond (18-20 years)	NMW
Apprentice Year 2 and beyond (21-22 years)	NMW
Apprentice Year 2 and beyond (23+ years)	NLW
Dog Allowance (per dog per week)	increase of 8.5%
Night Work Allowance	increase of 8.5%
Birth & Adoption Grant	increase of 8.5%
Accommodation Offset Allowance (House) (per week)	increase of 8.5%
Accommodation Offset Allowance (Other Accommodation) (per day)	increase of 8.5%

The estimation of the Low Pay Commission (which recommends NMW / NLW pay rates to the UK Government) is that from April 2024 the National Living Wage Rate will be between £10.90 and £11.43 per hour, with a central estimate of £11.16 per hour. In addition, the Chancellor of the Exchequer announced on 2

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October 2023 the National Living Wage would rise to at least £11.00 per hour.

In 2019 the Low Pay Commission recommended that workers should be entitled to the NLW from the age of 21 years instead of 25 years. In the first step towards this, 23 and 24 year olds were brought onto the NLW from April 2021. 21 and 22 year olds are due to be moved onto the NLW from April 2024.

The proposed wage rates show all the grades as they are currently stipulated within the Order. If the UK Government decides to reduce the age for NLW to 21 years and above the impact on these proposals would be:

- Grades A3 (21-22 years) and A4 (23 years+) will merge to provide a single A3 grade with a minimum rate of pay of NLW + 2.5%
- Grades B3 (21-22 years) and B4 (23 years+) will merge to provide a single grade B3 with a minimum rate of pay of NLW + 3.1%
- Apprentice Year 2 and beyond (21-22 years) and Apprentice Year 2 and beyond (23+ years) will merge to provide a single grade of Apprentice Year 2 and beyond (21+ years) with a minimum rate of pay set at the National Living Wage.

If the UK Government decides not to lower the NLW age band to 21 years from 2024, the Panel are proposing to pay Grades A3 and A4 the same minimum rate of NLW +2.5% and Grades B3 and B4 the same minimum rate of NLW +3.1%. This recognises the **Low Pay Commission's view** (on Gov.UK) that most 21-22 years olds are already paid at or above the NLW and this has been growing over time. The Panel considers that this trend should be replicated in relation to the AMW.

The Panel has considered the implications of merging grades A3 and A4, B3 and B4 and Apprentice Year 2 (21-22 years) and (23+ years) on the basis that this treats agricultural workers differently on the grounds of age. The Panel

considers that the exemption (Paragraph 11 Schedule 9 Equality Act 2010) that relates to the NMW applies in this context. The Panel also considers that the differential between the AMW for agricultural workers 21 years and over and AMW for agricultural workers under 21 is justifiable on the grounds that it makes it easier for younger agricultural workers to find employment and encourages young people to stay in full-time education.

Table 3 shows examples of the new minimum rates of the pay after the NMW / NLW wage increases using the potential increases as estimated by the Low Pay Commission:

- £11.00 (Chancellor of the Exchequer announcement on 2 October 2023)
- £11.16 (central estimate of Low Pay Commission)
- £11.43 (higher end of the estimate from the Low Pay Commission)

An assumption has also been made that the National Minimum Wage for the lower age bands will increase by the same percentage as the National Living Wage.

These are for illustrative purposes only and the AMW increases for the 2024 Order will be based on the actual rates as announced.

Table 3

	NLW of £11.00	NLW of £11.16	NLW of £11.43
Category of worker			
Grade A1	£5.71	£5.79	£5.93
Grade A2	£8.10	£8.22	£8.42
Grade A3	£11.28	£11.44	£11.72
Grade A4	£11.28	£11.44	£11.72
Grade B1	£5.71	£5.79	£5.93
Grade B2	£8.10	£8.22	£8.42
Grade B3	£11.28	£11.44	£11.72
Grade B4	£11.34	£11.51	£11.78
Grade C	£11.80	£11.97	£12.25
Grade D	£12.94	£13.13	£13.45
Grade E	£14.21	£14.41	£14.76

Apprentice Yr 1	£5.57	£5.65	£5.79
Apprentice Yr 2+ (16-17)	£5.57	£5.65	£5.79
Apprentice Yr 2+ (18-20)	£7.91	£8.02	£8.21
Apprentice Yr 2+ (21-22)	£10.75	£10.90	£11.30
Apprentice Yr 2+ (23+)	£11.00	£11.16	£11.43
Dog Allowance	£10.16	£10.16	£10.16
Night Work Allowance	£1.93	£1.93	£1.93
Birth & Adoption Grant	£79.86	£79.86	£79.86
Accommodation Offset (House)	£1.79	£1.79	£1.79
Accommodation Offset (Other)	£5.74	£5.74	£5.74

Changes to the NMW/NLW rates are due to be announced in November 2023. Any changes confirmed to the NMW/NLW will take effect from 1 April 2024. The proposed 2024 minimum wage rates and relevant age bands as set out in this document will be amended to reflect any such changes.

Question 1: Do you agree with the proposed rates of pay and subsequent allowances for the financial year from 1 April 2024?

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Question 2: If the UK Government DOES NOT reduce the National Living Wage pay band from age 23+ to 21+ do you agree with the proposal to pay Grades A3 and A4 and B3 and B4 the same minimum rate of NLW +2.5% and NLW +3.1% respectively?

Question 3: If not, please explain why and what you feel is more appropriate.

Question 4: What do you consider the implications would be on individual businesses, workers and the agricultural sector more broadly (both positive and negative) of the proposed rates of pay and allowances set out above if they were implemented on 1 April 2024?

Section 2: Agricultural Wages Order Simplification

It is the aim of the Panel to ensure the AWO is as simple as possible for employers and agricultural workers to understand and use. With that aim in mind, the Panel has considered ways in which the Order could be streamlined and future proofed by making references to existing UK employment legislation, rather than repeating the content of existing provisions in the AWO. The Guidance which accompanies the AWO would be updated to provide clarification and explanation in relation to these provisions.

The Panel also considers this will assist with ensuring that the AWO remains compliant with any future updates in legislation and minimise the amount of amendment required to the Order moving forward. This will likely become increasingly important as legislation is amended as a result of the ongoing review of Retained EU Law.

The Articles in the Agricultural Wages Order 2023 which would be affected are:

- **Article 2 - “child”** has the meaning given in section 80EA of the Employment Rights Act 1996. A child will be the child of an agricultural worker if the agricultural worker satisfied the conditions specified in Regulation 4 of the Parental Bereavement Leave Pay Regulations 2000 as to relationship with a child who has died.
- **Article 2 – “working time”** has the meaning given in Regulation 2 of the Working Time Regulations 1998 and for the purposes of this Order any period which an agricultural worker is prevented from carrying out activities or duties due to bad weather should also be treated as working time.
- **Article 28 – Rest Breaks** The current Order states:

“An agricultural worker who is aged 18 or over and who has a daily working time of more than 5 and a half hours is entitled to a rest break”.

Regulation 12 of the Working Time Regulations 1998 states:

“Where an adult worker’s daily working time is more than six hours, he is entitled to a rest break”.

The Panel propose to amend Article 28 to bring it in line with Regulation 12 of the Working Time Regulations as, from a practical point of view, the Panel considered that the 30 minutes difference between the Working Time Regulations and the Order was unlikely to have a significant impact on agricultural workers as it is very rare for agricultural workers to work more than 5.5 hours without a break.

- **Article 29 – Daily Rest** - an agricultural worker is entitled to a daily rest period in accordance with Regulation 10 of the Working Time Regulations 1998.
- **Article 30 – Weekly Rest Period** - an agricultural worker is entitled to a weekly rest period in accordance with Regulation 11 of the Working Time

Regulations 1998.

- **Article 33(4)** - Amount of annual leave for agricultural workers with variable working days employed throughout the annual leave year - If at the end of the annual leave year, the agricultural worker has taken more holiday days than they were entitled to under this Order, based on the average number of qualifying days worked per week (calculated in accordance with paragraph (2)), the employer is entitled to deduct any pay for holiday days taken in excess of the agricultural worker's entitlement or, in the alternative, deduct the holiday days taken in excess of the agricultural worker's entitlement from their entitlement for the following annual leave year (provided any such deduction does not result in the agricultural worker receiving less than their statutory annual leave entitlement under the Working Time Regulations 1996).

This will future proof the Order in relation to the removal of the distinction between the statutory entitlement under Regulations 13 and 13A of the Working Time Regulations 1998.

- **Article 36 – holiday pay**

1. An agricultural worker is entitled to be remunerated in respect of each day of annual leave taken by them based on the agricultural worker's normal weekly pay.
2. The amount of holiday pay to which an agricultural worker is entitled under paragraph (1) is to be determined in accordance with Regulation 16 of the Working Time Regulations 1998.

New definition of normal weekly pay in Article 2 Interpretation:

“normal weekly pay” means

1. the agricultural worker's basic pay under their contract or apprenticeship,

and

2. any overtime pay and any allowance paid to the agricultural worker on a consistent basis.

Question 5: Do you agree with the aim of the Panel to simplify the Order so that is it easier for employers and agricultural workers to understand and use?

Question 6: Do you agree that content which duplicates UK Employment Legislation should be replaced with simpler references, so as to streamline and futureproof the Order?

Question 7: Do you agree with the Proposal to amend Article 28 regarding Rest Breaks to bring it in line with Regulation 12 of the Working Time Regulations 1998?

Question 8: Do you agree the Guidance which accompanies the AWO should be used to provide clarification and explanation in relation to these provisions?

Question 9: If not, please explain why and what you feel is more appropriate.

Section 3: Minimum rates of pay for overtime

Article 12 sets out the provisions made within the Order for the minimum rates of pay for overtime.

The Panel (by majority) considers the overtime rate payable to agricultural workers should be payable by reference to the agricultural worker's actual hourly rates of pay, rather than the minimum hourly rate of pay prescribed in the Order.

Question 10: Do you agree with the proposed amendments being made to Article 12 of the Agricultural Wages (Wales) Order 2024 regarding the minimum rates of pay for overtime?

Question 11: If not, please explain why and what you feel is more appropriate.

Question 12: What do you consider the implications would be on individual businesses, workers and the Agricultural sector more broadly (both positive and negative) of this amendment to Article 12?

Section 4: other provisions of the Agricultural Wages Order

Each year the Panel look at every article of the [The Agricultural Wages \(Wales\) Order 2023](#) (on legislation.gov.uk) to ascertain whether any further amendments are required. The view of the Panel was that no amendments were required to the provisions of the Order pertaining to the terms and conditions as set out in **Table 4**.

Table 4

Article Number	Subject
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Article 2	Definitions of “agriculture”, “agricultural worker”, “apprenticeship framework”, “basic hours”, “birth and adoption grant”, “compulsory school age”, “consumable produce”, “employment”, “guaranteed overtime”, “hours”, “night work”, “on call”, “output work”, “overtime”, “panel”, “qualifying days”, “sickness absence”, “the national minimum wage” and “travelling”
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Articles 4 to 9	Grades and categories of agricultural workers
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Article 10	Apprentices
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Article 13	Minimum rates of pay for output work
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Article 14	Protection of pay
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Article 17	Training Costs
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Articles Agricultural Sick Pay
18 to 27

Article 31 Annual Leave Year

Article 32 Amount of annual leave for agricultural workers with fixed working days
employed throughout the annual leave year

Article 34 Amount of annual leave for agricultural workers employed for part of the leave
year

Article 35 Timing of annual leave

Article 37 Public holidays and bank holidays

Article 38 Payment in lieu of annual leave

Article 39 Payment of holiday pay on termination of employment

Article 40 Recovery of holiday pay

Articles Bereavement Leave
41 to 43

Article 44 Unpaid Leave

Schedule Annual Leave Entitlement
2

Schedule Payment in Lieu of Annual Leave
3

Question 13: Do you agree with the proposal to leave all other articles within the Order unchanged?

Question 14: If not, please explain why and what amendments you feel need to be made.

Question 15: Do you have any further comments to make regarding the Agricultural Wages Order?

Question 16: Please provide information about yourself or your organisation. If

possible, include details about the occupation or sector you are involved in, your workforce if you are an employer (including number of AMW workers, their grades and rates), and anything else you think is relevant.

Consultation questions

Question 1:

Do you agree with the proposed rates of pay and subsequent allowances for the financial year 1 April 2024?

Question 2:

If the UK Government DOES NOT reduce the National Living Wage pay band from age 23+ to 21+ do you agree with the proposal to pay Grades A3 and A4 and B3 and B4 the same minimum rate of NLW +2.5% and NLW +3.1% respectively?

Question 3:

If not, please explain why and what you feel is more appropriate.

Question 4:

What do you consider the implications would be on individual businesses, workers and the agricultural sector more broadly (both positive and negative) of the proposed rates of pay and allowances set out above if they were implemented on 1st April 2024?

Question 5:

Do you agree with the aim of the Panel to simplify the Order so that it is easier for employers and agricultural workers to understand and use?

Question 6:

Do you agree that content which duplicates UK Employment Legislation should be replaced with simpler references, so as to streamline and futureproof the Order?

Question 7:

Do you agree with the Proposal to amend Article 28 regarding Rest Breaks to bring it in line with Regulation 12 of the Working Time Regulations 1998?

Question 8:

Do you agree the Guidance which accompanies the AWO should be used to provide clarification and explanation in relation to these provisions?

Question 9:

If not, please explain why and what you feel is more appropriate.

Question 10:

Do you agree with the proposed amendments being made to Article 12 of the Agricultural Wages (Wales) Order 2024 regarding the minimum rates of pay for overtime?

Question 11:

If not, please explain why and what you feel is more appropriate.

Question 12:

What do you consider the implications would be on individual businesses, workers and the Agricultural sector more broadly (both positive and negative) of this amendment to Article 12?

Question 13:

Do you agree with the proposal to leave all other articles within the Order unchanged?

Question 14:

If not, please explain why and what amendments you feel need to be made.

Question 15:

Do you have any further comments to make regarding the Agricultural Wages Order?

Question 16:

Please provide information about yourself or your organisation. If possible, include details about the occupation or sector you are involved in, your workforce if you are an employer (including number of AMW workers, their grades and rates), and anything else you think is relevant.

How to respond

Comments on these proposals should be submitted before 19 November 2023 so the Panel may submit advice to Ministers as required by the Agricultural Sector (Wales) Act 2014.

Please submit your response in any of the following ways:

- Complete our online form
- Download, complete our online form and email AAP@gov.wales
- Download, complete our online form and post to:

Agricultural Advisory Panel Manager
Welsh Government
County Hall
Spa Road East
Llandrindod Wells

Your rights

Any response you submit will be seen in full by Welsh Government staff dealing with matters relating to the Agricultural Advisory Panel. Responses will also be shared with the Panel, and where the Welsh Government or the Panel undertakes further analysis of consultation responses then this work may be carried out by third party contractors (e.g. a research organisation or a consultancy company). Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

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- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tell us.

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Data Protection Officer

Data Protection Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Information Commissioner's Office

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or 0303 123 1113

Website: <https://ico.org.uk/>

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