

## Agricultural Advisory Panel for Wales

Dear Consultee

The Agricultural Advisory Panel for Wales was established under The Agricultural Sector (Wales) Act 2014. One of its key responsibilities is “to prepare agricultural wages orders in draft, consulting on such orders and submitting them to Ministers for approval”.

As Chair of the Panel I am writing to ask for your views on the Panel’s proposed changes to the terms and conditions for agricultural workers, to be included in the Agricultural Wages Order 2019. These proposals were made at the Panel’s meeting on 4 September and are listed below.

### 1. Rates of Pay

The Panel proposes that the minimum rates of pay for agricultural workers should be increased as follows:

| <b>Grade</b>     | <b>Current Rate £ per hour</b> | <b>Proposed Rate £ per Hour</b> |
|------------------|--------------------------------|---------------------------------|
| Grade 1 under 16 | £3.47                          | £3.54                           |
| Grade 1 16-24    | £7.38                          | £7.52                           |
| Grade 1 25 +     | £7.83                          | £7.98                           |
| Grade 2          | £8.29                          | £8.45                           |
| Grade 3          | £8.54                          | £8.70                           |
| Grade 4          | £9.16                          | £9.36                           |
| Grade 5          | £9.70                          | £9.88                           |
| Grade 6          | £10.48                         | £10.64                          |

Apprentice rates to be raised as follows

| <b>Grade</b> | <b>Current Rate £ per hour</b> | <b>Proposed Rate £ per Hour</b> |
|--------------|--------------------------------|---------------------------------|
| Year 1       | £3.93                          | £4.00                           |
| Year 2 16-17 | £4.21                          | £4.29                           |
| Year 2 18-20 | £5.90                          | £6.01                           |
| Year 2 21-24 | £7.38                          | £7.52                           |
| Year 2 25 +  | £8.05                          | £8.20                           |

These rates may be increased in the event of an increase in the National Minimum or National Living Wage above the proposed minimum rates of pay for agricultural workers.

Other Proposed Allowances:

|                            | Current | Proposed |                        |
|----------------------------|---------|----------|------------------------|
| Dog Allowance              | £8.02   | £8.17    | Per Dog per Week       |
| Night Time Work Allowance  | £1.52   | £1.55    | Per Hour of Night Work |
| Birth / Adoption Allowance | £63.09  | £64.29   | For Each Child         |

## 2. Other Proposed Changes

The first is a clarification rather than a policy change and the second is needed to ensure compliance with existing employment law:

- a. The removal of Paragraph 11(b) of the Agriculture Wages (Wales) Order;

Under Article 11 of the Agricultural Wages (Wales) Order 2018 an apprentice is defined as follows:

11.—(1) An agricultural worker is an apprentice employed under an apprenticeship if—

(a) they are employed under either a contract of apprenticeship, an apprenticeship agreement within the meaning of section 32 of the Apprenticeships, Skills, Children and Learning Act 2009(1) or

are treated as employed under a contract of apprenticeship; **and**

***(b) they are within the first 12 months after the commencement of that employment under 19 years of age.***

(2) An agricultural worker must be treated as employed under a contract of apprenticeship if they are engaged in Wales under Government arrangements known as Foundation Apprenticeships, Apprenticeships or Higher Apprenticeships.

In this article “Government arrangements” means arrangements made under section 2 of the Employment and Training Act 1973(1) or under section 17B of the Jobseekers Act 1995(2).

The Panel considers that this definition is misleading, as an apprentice does not need to be under 19 years of age. This age reference relates to when under the National Minimum Wage (NMW) legislation an apprentice would be entitled to the apprenticeship rate of NMW. This is not relevant to agricultural workers as the Agricultural Wages Order sets prescribed rates for agricultural apprentices.

The Panel considers that this issue can be clarified by removing clause 11(b) (the wording highlighted in bold and italics above).

- b. Amendment of the term ‘qualifying days’ in relation to annual leave provision

The Panel considers that the current definition of “qualifying days” which is used in the Agricultural Wages Order to calculate annual leave entitlement could be interpreted in a way which could be detrimental to agricultural workers who are taking annual leave, bereavement

leave or statutory family leave (e.g. maternity, paternity, shared parental or adoption leave). The definition of “qualifying days” in the Agricultural Wages (Wales) Order is as follows:

**“qualifying days” means days on which the agricultural worker would normally be required to be available for work apart from days on which the agricultural worker-**

- (a) Was taking annual leave;**
- (b) Was taking bereavement leave; or**
- (c) Was taking statutory maternity, paternity or adoption leave.**

This definition could be interpreted to mean “qualifying days” *do not* include days on which annual leave, bereavement leave or family leave is taken. Agricultural workers are entitled to accrue holiday whilst taking annual leave, bereavement leave or statutory family leave. Such an interpretation therefore could result in a detriment for agricultural workers. Agricultural workers are also entitled to accrue holiday whilst on a period of sickness.

The Panel therefore wishes to clarify the definition of qualifying days to ensure that qualifying days **includes** days on which agricultural workers are taking annual leave, bereavement leave, family leave or on periods of sickness absence.

The Panel proposes amending the definition of qualifying days as follows:

“qualifying days” means days on which the agricultural worker would normally be required to be available for work including days on which the agricultural worker-

- (a) was taking annual leave;
- (b) was taking bereavement leave;
- (c) was taking statutory maternity, paternity, shared parental or adoption leave; or
- (d) was on a period of sickness absence.

I should be grateful for your comments on these proposals before **26 October** so that the Panel may submit our advice to Ministers as required by the Agricultural Sector (Wales) Act 2014.

The responses to this consultation will be made publicly available. Should you wish to remain anonymous, please indicate this within your response. Thank you in advance for your input.

Please respond to the Panel Manager in writing at the address below or by email to: [Ryan.Davies@gov.wales](mailto:Ryan.Davies@gov.wales)

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Yours sincerely

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