

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 the Welsh 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 2020. These proposals were made at the Panel's meeting on 2 September and are listed below.

The Panel came to these proposed rates taking into consideration the current uncertainties surrounding the agricultural industry and the need to make sure farm workers are paid at a fair rate.

1. Rates of Pay

The Panel proposes that the minimum rates of pay for agricultural workers increase by 1.8% across all pay bands as follows:

	Current Rate £ per Hour	Proposed Rate £ per Hour
Grade 1 (under 16)	£3.54	£3.60
Grade 1 (aged 16- 24)	£7.70	£7.84
Grade 1 (aged 25+)	£8.21	£8.36
Grade 2	£8.45	£8.60
Grade 3	£8.70	£8.86
Grade 4	£9.36	£9.53
Grade 5	£9.88	£10.06
Grade 6	£10.64	£10.83

Apprentice rates to be raised as follows:

	Current Rate £ per Hour	Proposed Rate £ Per Hour
Apprentice Year 1	£4.00	£4.07
Apprentice Year 2 (aged 16- 17)	£4.29	£4.37
Apprentice Year 2 (aged 18- 20)	£6.15	£6.26
Apprentice Year 2 (aged 21- 24)	£7.70	£7.79
Apprentice Year 2 (aged 25+)	£8.21	£8.36

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:

Dog Allowance	£8.17	£8.32	Per Dog Per Week
Night Time Work Allowance	£1.55	£1.58	Per Hour of Night Work
Birth Adoption Allowance	£64.29	£65.45	For Each Child

2. Other Proposed Changes

The National Assembly for Wales' Constitutional and Legislative Affairs Committee, ('the committee') put the 2019 Wages order through a technical scrutiny. This highlighted minor clarification points within the order relating to:

a) Accommodation Offset Allowance

The committee felt Article 15(1) and (2) of the Agricultural Wages Order 2019 that there was potential ambiguity in relation to how the Accommodation Offset Allowance should be applied to agricultural workers' wages.

It was agreed by the Panel that Article 15 of the Order be reworded to remove any potential ambiguity and clarify that the Accommodation Offset Allowance should be a weekly deduction from the agricultural worker's minimum wage where a house (as defined by the Order) is provided and a daily deduction from the agricultural worker's minimum wage each day that other accommodation (as defined by the Order) is provided to the agricultural worker.

b) Agricultural Sick Pay

Article 21(2) sets out the maximum number of weeks an agricultural worker is entitled to agricultural sick pay in each period of entitlement.

The committee highlighted there was an unintended consequence from the current wording of the Order in that, where an agricultural worker has been employed for exactly 24, 36, 48, and 59 months they can be entitled to the lower and higher level of entitlement.

As an example, an agricultural worker employed for exactly 24 months will be entitled to 13 weeks sick pay (on the basis of being employed for not more than 24 months) and 16 weeks sick pay (on the basis of being employed at least 24 months).

The Panel propose the following changes to the Article 21(2) Agricultural Wages Order 2020 by inserting the following:

"During each period of entitlement, the maximum number of weeks that an agricultural worker is entitled to agricultural sick pay is:

- *13 weeks in the second year of employment;*
- *16 weeks in the third year of employment;*
- *19 weeks in the fourth year of employment;*
- *22 weeks in the fifth year of employment;*
- *26 weeks in the sixth and all subsequent years of employment."*

c) Calculation of Holiday Entitlement and/or Pay for Those Working Variable Hours

In order to ensure the 2020 Order keeps step with changes in legislation which are due to come into force on 6 April 2020, the Panel propose that the provision in Article 34(4) be amended to increase the reference period for determining an average week's pay for the purposes of calculating holiday pay from 12 weeks to 52 weeks. In addition, in order to ensure consistency between the provisions of the Order the Panel propose that the reference period for determining the holiday entitlement of agricultural workers working variable hours under Article 31(1), also be changed from 12 weeks to 52 weeks. The Panel therefore propose the following amendment to the wording of the Articles: *"Article 31(1) Where an agricultural worker works their basic hours on a varying number of days each week, the number of days worked each week for the purposes of the Table in Schedule 5, is to be taken as an average of the number of qualifying days worked each week during the period of **52 weeks** immediately preceding the commencement of the agricultural worker's annual leave and that average number of qualifying days must, where appropriate, be rounded to the nearest whole day.*

*Article 34 (4) Where the agricultural worker's normal working hours vary from week to week, or where an agricultural worker with normal working hours (as in paragraph (3)) works overtime in addition to those hours, the amount of the agricultural worker's normal weekly pay for the purposes of paragraph (2) is calculated by adding together the amount of the agricultural worker's normal weekly pay in each of the **52 weeks** immediately preceding the commencement of the worker's annual leave and dividing the total by **52**."*

I should be grateful for your comments on these proposals before **16 October 2019** 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:

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Yours sincerely

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Chair
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