



Llywodraeth Cymru
Welsh Government

Guidance on Calculating Back Pay

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Back-dating pay increases

The minimum rates of pay and allowances and other minimum terms and conditions to which agricultural workers, including those who work within the horticulture and forestry sectors, are entitled to by law from 1 April 2021 are set out in the Agricultural Wages (Wales) Order 2022 (“the Order”).

These changes have been back dated to 1 April 2021 to recompense those agricultural workers who would have expected an increase in their hourly wage from 1 April 2021, as proposed in the Panel’s autumn 2020 public consultation.

This will mean that some agricultural workers may be entitled to back pay from their employer in respect of any difference in their current rate of pay compared to the minimum rate of pay for their new grade.

This is a sum of the difference between (a) the amount employees have already been paid and (b) the increased minimum pay and allowances. This will have a knock on effect to payments for overtime, holiday and sickness absence.

This back-pay entitlement relates to the period between 1 April 2021 and the point at which the increased minimum rates are paid by the employer. This is called the ‘retroactive period’.

There is a legal requirement on employers to pay the increased minimum rates from 1 April 2021.

A failure by the employer to make such a back-pay payment could result in an unlawful deduction from wages claim by the agricultural worker, i.e. a claim for pay which they were entitled to receive but were not paid.

Please note: An agricultural worker will ordinarily have 3 months within which to bring a claim from the point at which they begin to receive the increased rates.

Back pay may be paid in a lump sum or over a reasonable period of time agreed between the employer and the agricultural worker.

There follows an example of how to calculate **gross** back pay for the retroactive period. Just like regular pay, retroactive pay is subject to statutory deductions such as Income Tax and National Insurance as well as pension contributions.

Example:

A Grade 5 worker, contracted to work 35 hours per week and work 5 days a week, is evaluated at Grade D Senior Agricultural Worker:

Step 1: Hourly Rate

- Consult your records to identify the number of hours worked and paid at the minimum hourly rate in the retroactive period (e.g. 1,610 hours).
- Calculate the difference between the new and old hourly rate:
 $£10.39 - £10.06 = £0.33$
- Multiply the difference in rates by the number of hours worked:
 $1,610 \times £0.33 = \mathbf{£531.30}$

Step 2: Overtime

- Consult your records to identify the number of overtime hours worked and paid for during the retroactive period (e.g. 520 hours)
- Calculate the difference between the new and old overtime rates:
 $(£10.39 \times 1.5) - (£10.06 \times 1.5) = £0.495$
- Multiply the difference in overtime rates by the hours worked:
 $520 \text{ hours} \times £0.495 = \mathbf{£257.40}$

Step 3: Holiday Pay

- Consult your records to identify how many days holiday the worker was paid for during the retroactive period (e.g. 28)
- Calculate the old daily rate of holiday pay:
 $(£10.06 \text{ (Grade 5 hourly rate)} \times 35 \text{ (hours worked per week)}) \div 5 \text{ (days worked per week)}$
 $= £70.42$
- Calculate the new daily rate of holiday pay:
 $(£10.39 \text{ (Grade D hourly rate)} \times 35 \text{ (hours worked per week)}) \div 5 \text{ (days worked per week)}$
 $= £72.73$
- Subtract the new rate from the old rate to work out the difference:
 $£72.73 - £70.42 = £2.31$
- Multiply the number of days holiday by the difference:
 $28 \text{ days holiday} \times £2.31 = \mathbf{£64.68}$

Step 4: Agricultural Sick Pay

- Consult your records to identify the number of hours for which the worker received Agricultural Sick Pay during the retroactive period (e.g. 13 days (91 hours) = 91)
- Deduct the old hourly rate from the new hourly rate:
 $10.39 - £10.06 = £0.33$
- Multiply the hours by the difference in the rates:
 $91 \text{ hours} \times £0.33 = \mathbf{£30.03}$

Step 5: Gross Pay Calculation

- Add back pay for contracted hours, overtime, holiday and agricultural sick pay
e.g. $£531.30 + £257.40 + £64.68 + £30.03 = \mathbf{£883.41}$

Enquiries and further assistance

Any questions on these issues should be addressed to your legal adviser/accountant/Trade Union in the first instance – see **Appendix 1 – Useful Contacts**.

If you are an agricultural worker and you are not receiving or have not received the correct agricultural minimum wage, you should speak to your employer in the first instance. You have the right to ask your employer for copies of your pay records.

If this does not resolve the issue you can contact Welsh Government:

Email: SLMEnquiries@gov.wales

Post: Agricultural Minimum Wage Team
Welsh Government
County Hall
Spa Road East
Llandrindod Wells
Powys
LD1 5LG

Telephone: 0300 060 4400

Your complaint/enquiry will be treated as confidential.

Appendix 1: Useful contacts

National Farmers' Union (NFU Cymru)

Agriculture House
Royal Welsh Showground
Llanelwedd
Builth Wells LD2 3TU
Tel: 01982 554200
Email: nfu.cymru@nfu.org.uk

Farmers' Union of Wales (FUW)

Llys Amaeth
Plas Gogerddan
Aberystwyth
Ceredigion SY23 3BT
Tel: 01970 820820
Email: head.office@fuw.org.uk

Country Landowners Association (CLA Cymru)

Orbit Business Centre
Rhydycar Business Park
Merthyr Tydfil CF48 1DL
Tel: 01547 317085
Email: wales@cla.org.uk

Unite the Union (Wales)

Regional Office
1 Cathedral Road
Cardiff CF11 9SD
Tel: 02920 394 521
Fax: 02920 390 684
Email: wales@unitetheunion.org

Lantra (Wales)

Royal Welsh Showground
Llanelwedd
Builth Wells
Powys LD2 3WY
Tel: 01982 552646
Email: wales@lantra.co.uk

YFC

Royal Welsh Showground
Llanelwedd
Builth Wells
Powys LD2 3NU
Tel: 01982 553502
Email: information@yfc-wales.org.uk

For wider employment issues contact:

Citizens Advice Bureau

Citizens Advice consumer helpline:
03444 77 20 20
Monday to Friday, 9am to 5pm
www.citizensadvice.org.uk/wales

ACAS

Advisory, Conciliation and Arbitration Service
ACAS Helpline: **0300 123 1100**
Monday to Friday, 8am to 6pm
www.acas.org.uk