

A. CHILDREN’S RIGHTS IMPACT ASSESSMENT

1. Describe and explain the impact of the proposal on children and young people.

The main objectives of the provision for young workers within the Agricultural Minimum Wage [“AMW”] regime is to ensure they receive adequate pay and have an opportunity to gain valuable work experience. There is no data available on how many young people are employed as agricultural workers in Wales, although the number is expected to be low and they would most likely be family members¹. Due to the lack of evidence the impact of the Order cannot be quantified however the changes made will have a positive impact on children and young people.

The proposed grades and AMW rates for 2021 / 2022 are as follows (the comparative rates under the 2020 Order are included):

Category of Worker	2021 Rates	Comparative 2020 Rates
A1 – Agricultural Development Worker (16-17 years)	£4.62	£7.84
A2 – Agricultural Development Worker (18-20 years)	£6.56	£7.84
A3 – Agricultural Development Worker (21-22 years)	£8.36	£8.20
A4 – Agricultural Development Worker (23 years+)	£8.91	£8.72
B1 – Agricultural Worker (16-17 years)	£4.62	£8.72
B2 – Agricultural Worker (18-20 years)	£6.56	£8.72
B3 – Agricultural Worker (21-22 years)	£8.36	£8.72
B4 – Agricultural Worker (23 years+)	£9.19	£8.72
C – Agricultural Advanced Worker	£9.47	£8.86
D – Senior Agricultural Worker	£10.39	£10.06
E – Agricultural Manager	£11.40	£10.83

¹ The Implications for the National Minimum Wage of the abolition of the Agricultural Wages Board for England and Wales; Incomes Data Services London 2011

Category of Worker	2021 Rates	Comparative 2020 Rates
Apprentice Year 1	£4.30	£4.15
Apprentice Year 2 (under 19 years)	£4.62	£4.37
Apprentice Year 2 & Beyond (19-20 years)	£6.56	£6.45
Apprentice Year 2 & Beyond (21-22 years)	£8.36	£8.20
Apprentice Year 2 & Beyond (23 years)	£8.91	£8.72

The Panel also proposed the following increases for allowances:

Allowance	2020	2021
Dog Allowance – per dog per week	£8.32	£8.53
Night Time Work Allowance – per hour of night work	£1.58	£1.62
Birth / Adoption Allowance – for each child	£65.45	£67.09

The Agricultural Advisory Panel has been working toward modernising and simplifying the Agricultural Wages Order [“AWO”] to ensure it is relevant to the agriculture industry in Wales and fit for purpose for both employers and agricultural workers alike, including younger workers. To this end, the Panel have developed a new grading structure which will make it easier to define an agricultural worker’s appropriate grade and will provide greater opportunities and potential to develop skills within the agricultural sector in Wales. An error in the 2020 AWO has also been corrected and the minimum rate for workers under compulsory school leaving age has been removed.

All school children who work in the UK are protected by the provisions of the Children and Young Persons Act 1933. This places limits on both the types of work that can be undertaken and the hours worked by a young person of compulsory school age. Young workers over the age of 16 are subject to the National Minimum Wage [“NMW”] framework however this does not set statutory minimum rates for young workers under the age of 16.

The Panel have retained age bands for the lowest grade workers, although they have been altered to align with changes in the age ranges of the NMW. The Panel decided the removal of the age bands could discourage employers from taking on young people if they had to pay them at the higher rate. The Panel were of the view NMW age bands provide a greater differential in rates than the previous AWO bands and are therefore more likely to incentivise employment of younger people.

An aim of the AMW regime is to encourage formal training. The Panel questioned what incentive there would be to complete apprenticeships if the pay rate was set so high. Furthermore, the Panel were of the view setting hourly pay rates helps protect young workers and ensures their work is recognised and remunerated in accordance with their duties.

Key stakeholders such as the farming unions have expressed their support for retaining the provision for young workers within the Welsh AMW regime – the consensus being the provision encourages young people to gain valuable work experience and can help the industry gain future new entrants.

Grade A within the AMW regime is regarded as a transitional grade. The statutory provisions provide for Grade A workers to attend training that would allow them to move to a higher grade following 30 weeks of continuous employment, at the expense of their employer. This can represent a progression path for new entrants when they join agriculture.

The AMW framework includes a wide set of agriculture-related benefits and allowances for all workers in the sector. These include overtime rates, on-call allowance, night work supplement, housing offset and dog allowance. The 2021 Order ensures young workers in agriculture receive a fair pay with a comprehensive package of additional employment benefits.

The provisions for apprentices support succession, skills development and skills retention within the industry – all of which are crucial for the future success of agriculture in Wales. It is imperative that provisions contained in the Wages Order support career progression and the entry of young entrants.

The policy intention of maintaining the existing AMW regime and its reinvigoration through the introduction of a new Order with fair pay levels is to promote new entrants into the industry in the future and offer favourable conditions to those wishing to join agricultural apprenticeship programmes. The provisions for apprentices and training within the new Order will assist in young people gaining skills and qualifications, which can improve their job prospects in the future. The AMW in Wales may create a wages differential between Wales and England, potentially disadvantaging farmers who largely compete with producers based in England due to an increase in costs. However, such impacts are likely to be relatively marginal in overall terms. The economic impact of the new Wages Order has been considered in the Regulatory Impact Assessment which will be published with the 2022 Order.

2. Explain how the proposal is likely to impact on children's rights.

In maintaining the provisions of the Agricultural Minimum Wage ["AMW"] regime and increasing pay rates for agricultural workers, including young worker and apprentices, the Welsh Government's assessment is that the work helps to realise or affect the following rights with regards to the UN Convention on the Rights of the Child ["UNCRC"]:

- **Article 1** – Everyone under 18 years of age has all the rights in this convention.

- **Article 2** – The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.
- **Article 3** – All organisations concerned with children should work towards what is best for each child.
- **Article 4** – Governments should make these rights available to children.
- **Article 6** – All children have the right of life. Governments should ensure that children survive and develop healthily.
- **Article 12** – Children have the right to say what they think should happen when adults are making decisions that affect them and to have their opinions taken into account.
- **Article 27** – States Parties recognise the right of every child to a standard of living adequate for the child’s physical mental, spiritual, moral and social development.
- **Article 29** – Education develop each child’s personality and talents to the full. It should encourage children to respect their parents and their own, and other, cultures.
- **Article 32 (1)** - States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.
- **Article 32 (2)** - States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.
- **Article 36** – States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare

The following section indicates where the legislation development respects or gives greater effect to the Articles identified above.

Articles 1, 2, 3, 4 and 12

These articles relate to the general wellbeing and consideration given to children. This is fulfilled under the statutory provisions as these apply to all workers aged 16 and over. The Agricultural Wages (Wales) Order sets minimum wages for all workers, ensuring they are not exploited when employed at a young age. It is also important to note these rates are set in the context of other employment law which stipulates restrictions on the hours children are allowed to work during term time and during school holidays.

The main provisions of the new Wages Order apply to all workers aged 16 and over including migrant and immigrant workers. A provision introduced in 2016 ensures that relevant equivalent qualifications (awarded outside the UK) which can determine the grade and the wage of the worker are recognised within the AMW regime. This ensures migrant and immigrant workers have the same rights as those born in the UK.

The main objectives of the provision for young workers within the AMW regime is to ensure they receive adequate pay and have an opportunity to gain valuable work experience. These objectives support Articles 3 and 4 in particular.

Respondents to the consultations provided no specific comments on children's rights. Children's groups and young farmer groups were targeted during the consultation period, but none responded.

Due to the lack of responses to date, the Panel will consider ways to improve engagement work with Children's groups and Young Farmers' groups in the future. A representative of YFC Wales and Coleg Cambria is on the sub-committee for Skills Development and Training and additional representatives from other organisations representing young people will be invited to attend over the coming year. These objectives will support and promote Article 12.

Articles 6 and 27

The Agricultural Wages (Wales) Order continues to protect farm workers' wages and therefore it will continue the current level of protection for the children of farm workers from living in poverty, as well as support young workers and their career progression. The work associated with the implementation of the 2014 Act supports the Welsh Government's aspiration to meet the living wage for all who live and work in Wales. Under the AMW regime the package of benefits and salary for agricultural workers would, in most instances, reach or exceed the National Living Wage which is above the National Minimum Wage levels.

Article 29

Provisions under the AMW regime, such as the career structure that links pay levels to qualifications and experience and the pay matrix for apprentices, support young people to achieve meaningful careers in agriculture and provides opportunities for children and young people to pursue education and acquire skills needed in their chosen field.

The AMW system supports young people under educational schemes in agriculture in Wales. The provisions for apprentices assist succession, skills development and skills retention within the industry. It also provides remuneration for young workers which not only helps acquire important and valuable work experience in the farming environment but has the capability to increase their appreciation for farm work and their rural cultural heritage.

Article 32

Setting hourly pay for young people under the AMW regime ensures their work is recognised and remunerated in accordance with their duties and helps protect vulnerable young workers from exploitation in line with Article 32 of the UNCRC. In addition, setting minimum levels of pay acknowledges the contribution of young workers to the economy and agricultural production whilst also offering rewarding and valuable work experience which can help them to secure future employment opportunities.

The Welsh Ministers have a duty to enforce the applicable AMW rates and any complaint received in relation to a potential breach to the statutory regime is investigated. If a breach is identified, the Welsh Government has the means to force the employer to pay any confirmed underpayment to the worker in question. The enforcement mechanism applies to categories of worker covered by the 2020 Order including young workers of compulsory school age and apprentices.

Article 36

The welfare of young workers is protected under the AMW regime which offers appropriate hourly pay for young workers and apprentices and supports skills development and career progression for all employed in agriculture in Wales. The provisions of the Wages Order apply in the context of wider UK law which sets limits on the number of hours that can be worked and the type of work that can be undertaken to ensure their health, welfare and education is not harmed.

Having a separate remuneration for young people achieves a number of objectives – it makes sure they are paid acceptable levels of pay which acknowledges and respects their contribution in a farming environment and it helps them develop various agriculture-related and transferable skills which can lead to better employment and education opportunities in the future.

The Minister for Rural Affairs, North Wales and Trefnydd has been informed of the outcome of the consultation exercises on the new rates. The Panel also has asked for the new Agricultural Wages Order to be made retrospectively to come into force on 1 April 2021 – this has been approved by the Counsel General.

The Welsh Government will monitor the impact of the 2022 Order, and any subsequent Orders proposed by the Agricultural Advisory Panel, on the agricultural sector including young workers. The Welsh Government will continue to have a dialogue with key stakeholders and collate feedback on the impact of the new legislation. A helpline number will continue to be available for queries related to the 2022 Order. All of this information will help to both assess the effectiveness of the Order and inform any future Order.

The Agricultural Sector (Wales) Act 2014 has been reviewed as part of the statutory requirement stipulated by the 2014 Act. Section 13 specifies the Welsh Ministers must provide a report on the operation and effect of the Act within three years of the Act receiving Royal Assent (30 July 2017). The report contains information on the impact of the Act on agricultural workers, employers and the sector in general. The report was laid in the National Assembly:

<http://www.assembly.wales/laid%20documents/gen-ld11424/gen-ld11424-e.pdf>

<http://www.assembly.wales/laid%20documents/gen-ld11424/gen-ld11424-w.pdf>