

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

Title of proposal:	Changes to the Agricultural Wages Order 2020
Official(s) completing the Integrated Impact Assessment (name(s) and name of team):	Daniel Ricketts
Department:	Agriculture, Sustainability and Development Division
Head of Division/SRO (name):	Victoria Jones
Cabinet Secretary/Minister responsible:	Lesley Griffiths, Minister for Rural Affairs, North Wales and Trefnydd
Start Date:	20th April 2022

SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

In “Taking Wales Forward” the Welsh Government has set out the five key areas where the biggest difference to the lives of the people of Wales can be made. The current proposal supports the creation of a prosperous, secure, united and connected Wales. The specific goals of the Wellbeing of Future Generations (Wales) Act which apply include making Wales prosperous – developing a rural economy which generates wealth and provides equal opportunities and a country which is ecologically, economically and socially resilient. Furthermore, the work will support cohesive communities with a vibrant culture and a thriving Welsh language.

The aim of this policy is to introduce the Agricultural Wages (Wales) Order 2022 [“the 2022 Order”] which prescribes minimum hourly rates of pay for agricultural workers and other terms, conditions and benefits. The Order will be made pursuant to powers in the Agricultural Sector (Wales) Act 2014 [“the 2014 Act”].

The Agricultural Advisory Panel for Wales [“the Panel”] is an independent advisory body which was established under Section 2(1) of the 2014 Act by the Agricultural Advisory Panel for Wales (Establishment) Order 2016 [“the Panel Order”] on 1 April 2016. The Panel Order sets the number of Panel members at seven:

- Two representatives from Unite the Union;
- One representative from the Farmers’ Union of Wales;
- One representative from the National Farmers’ Union Cymru; and
- Three independent members – including an independent Chair.

The independent members and Chair are selected via the Public Appointment Process.

Article 3(2) of the Panel Order sets out the panel’s functions. The purpose of the Panel is to prepare agricultural wages orders in draft, including reviewing all terms and conditions which apply to agricultural workers, and supporting career development in the sector. The Panel are also responsible for consulting on such orders and submitting to Welsh Ministers for approval.

The main role of the Independent members of the Panel is to apply their expert views in discussions on key issues and to advise on the opportunities and challenges facing the industry.

The role of the representative members is to apply their expertise in representing the interest of their members on the key issues in Panel discussions and to advise on the opportunities and challenges facing the industry.

There is a key responsibility on all Panel members in helping to ensure that fair and reasonable draft Orders are brought forward on matters relating to minimum pay levels and relevant terms and conditions for agricultural workers in Wales as defined in the Agriculture Sector (Wales) Act 2014.

The Panel met to decide whether to propose changes to the 2020 Wages Order on 7 and 22 September 2020. A targeted consultation on the proposed changes was conducted from 26 October to 20 November 2020. The proposals were emailed to an extensive list of stakeholders and were made available on the Welsh Government Consultations webpage. Hard copies were also available on request.

A second targeted consultation was conducted from 22 October to 19 November 2021 following changes to the draft proposals. Key stakeholders, including the farming unions, UNITE and agricultural colleges were included. Panel members were encouraged to share the proposals throughout their networks.

There were two responses in total to the first consultation document. One response was from Unite the Union, of whom two representatives make up the Panel, and the other response was from Janet Finch-Saunders MS - Shadow Minister for Climate Change, Energy, and Rural Affairs. The Panel met to discuss the responses to the consultation.

There were three responses to the second consultation. One response was from Hywel Davies and another was from Duncan Hodgson. A third wished to remain anonymous. None of these were against the proposed change to the Agricultural Wages Order. The Panel re-submitted their proposals to Welsh Government on 21 December 2021.

The Minimum rates proposed by the Panel in the 2022 Order will supersede those in the 2020 Order. The introduction of the 2022 Order will help ensure that all agricultural workers receive the necessary protection and fair pay that reflects the nature of their work and the level of their responsibilities. Provision in the 2022 Order will continue to reward qualifications and/or experience in agriculture which includes pay differentials based on the level of skill required at each grade. This provides an incentive for skills development within the sector.

The grading structure in the 2022 Order has been modernised and simplified to ensure it is relevant to the agriculture industry in Wales and fit for purpose for both employers and agricultural workers alike. The new structure will make it easier to define an agricultural worker's appropriate grade and will provide agricultural workers with greater opportunities and potential to develop their skills within the agricultural sector in Wales.

The prescriptive list of awards and certificates of competence required as set out in Schedules 1, 2 and 3 of the current Agricultural Wages Order 2020 has been removed. The current schedules of qualifications are considered to be outdated and the new grading structure replaces the existing qualifications with a simpler system based on relevant Welsh Government Apprenticeship Framework qualifications (or equivalent) alongside workers' experience as alternative routes through the grade structure.

The 2022 Order will provide that any agricultural worker who would suffer a reduction in their minimum rate of pay as a result of their assimilation to a lower grade or lower minimum rate of pay under the proposed new grading structure must have their pay frozen at their current rate of pay (i.e. the minimum rate of pay applicable to their grade under the 2020 Order) until the

minimum rate of pay applicable to their grade under the proposed new grading structure reaches or exceeds their current rate of pay.

The 2022 Order will be taken forward within the context of the Welsh Government's wider Tackling Poverty agenda, assisting rural economies to grow and thrive, further contributing to the wider Welsh economy.

Some of those working in or joining the agriculture sector and their families should benefit from the provisions on minimum wages and training and skills development to further their careers. There are also wider benefits to the Welsh economy and our communities accruing from fair levels of pay and allowances and a better skilled workforce.

As the regulations are secondary legislation a Regulatory Impact Assessment has been completed.

SECTION 8. CONCLUSION

8.1 How have people most likely to be affected by the proposal been involved in developing it?

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The independent members and Chair are selected via the Public Appointment Process. The independent members apply their expert views in discussions on key issues and advise on the opportunities and challenges facing the industry.

The representative members apply their expertise in representing the interest of their members on the key issues in Panel discussions and advise on the opportunities and challenges facing the industry.

As a whole, Panel members have a key duty to ensure fair and reasonable draft Orders are brought forward.

Two 4-week consultations were carried out and a number of people with protected characteristics were invited to respond. It was also published on the Agricultural Advisory Panel website. A full list of the consultees is attached.

Key stakeholders, including the farming unions, UNITE, and agricultural colleges were included. Panel members were encouraged to share the proposals throughout their networks. The Consultation was available on the Welsh Government Consultations webpage and hard copies were also available on request.

8.2 What are the most significant impacts, positive and negative?

Some of those working in or joining the agriculture sector and their families should benefit from the provisions on minimum wages and training and skills development to further their careers. There are also wider benefits to the Welsh economy and our communities accruing from fair levels of pay and allowances and a better skilled workforce. The 2022 Order will not affect children specifically, only as part of the wider benefits noted above.

Data on the number of children working in agriculture in Wales is not available. A 2009 survey by the BBC in which 101 of the 175 local authorities in England and Wales participated found that there were around 30,000 young workers aged between 13 and 16 in some form of employment. Only a small proportion of these would be employed in agriculture. There is no evidence that this situation has changed.

We have no reason to believe there is disproportionate impact or discrimination as the provisions of the Act are applicable to all agricultural workers. However, a need has been identified to gather more substantive evidence in order to assess the situation fully. A baseline data gathering exercise has been undertaken. However due to the small number of results we are looking at additional ways to better inform the Order for 2022 onwards.

There are wider benefits to the Welsh economy accruing from fair levels of pay and allowances and a highly skilled workforce. The Panel and Welsh Government are working closely with farming unions and employee representatives with the intention of promoting agriculture as a viable employment path for all people, including those with protected characteristics. Going forward we have identified the need to collect and analyse data and research to better understand the impact of our policy on protected groups.

We also identified the need to make the membership of our Advisory Panel more diverse and more representative of the population it represents. A Public Appointments process for the Independent members was undertaken and a new Chair and Independent started on 1 April 2021.

Production of the Order will support rural communities where the Welsh language is often prevalent. In this way the Order will help to maintain cohesive and thriving Welsh-speaking communities in areas where agricultural employment is a dominant career option. Sustainability of rural communities is supported by the economic impact of fair minimum rates and recognition of the skills needed is provided for in the grade structure.

The Order directly supports the sustainability of the Welsh language in the 'heartlands' (e.g, Anglesey, Carmarthenshire, Ceredigion, Conwy and Gwynedd) which are predominantly rural and agricultural in nature. Sustaining rural communities means sustaining and supporting vibrancy of the Welsh language in these areas. There is a clear positive impact on the language therefore as there are intrinsic links between the economy, community and language. Over 70% of agricultural workers in the counties noted above are Welsh speakers and therefore would benefit directly with the new grading structure.

Only positive impacts and effects have been identified relating to the Welsh language.

The work of the Panel, enforcement of the 2014 Act, the introduction of all related Orders, consultations and guidance are all undertaken / published bilingually. Welsh is proactively offered as the medium of communication at meetings and events. Publication and public messaging are always bilingual.

Strengthening the 'offer' of agricultural work in Wales will also help to keep workers in the traditional Welsh language heartlands, where agriculture is one of the main means of employment.

8.3 In light of the impacts identified, how will the proposal:

- **maximise contribution to our well-being objectives and the seven well-being goals; and/or,**
- **avoid, reduce or mitigate any negative impacts?**

The current proposal supports the creation of a prosperous, secure, united and connected Wales. The specific goals of the Wellbeing of Future Generations (Wales) Act which apply include making Wales prosperous – developing a rural economy which generates wealth and provides equal opportunities and a country which is ecologically, economically and socially resilient. Furthermore, the work will support cohesive communities with a vibrant culture and a thriving Welsh language.

Ensuring fair wages for agricultural workers and supporting rural communities is of vital importance within the context of the Welsh Government's Tackling Poverty agenda. The specific goals of the agenda include raising household incomes, improving the skills base of young people and helping families in poorer communities. Providing fair wages for agricultural workers has the capacity to support families in rural areas by increasing their household income. 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 2022 Order will provide that any agricultural worker employed before the Order comes into force who would suffer a reduction in their minimum rate of pay as a result of their assimilation to a lower grade or lower minimum rate of pay under the proposed new grading structure should have their pay frozen at their current rate of pay (i.e. the minimum rate of pay applicable to their grade under the 2020 Order) until the minimum rate of pay applicable to their grade under the proposed new grading structure reaches or exceeds their current rate of pay.

Enforcement procedures are also in place to ensure action can be taken against any employer who does not adhere to the minimum pay rates or terms and conditions of the Order.

8.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

A baseline data gathering exercise has been undertaken. However due to the small number of results we are looking at additional ways to better inform the Order for 2022 onwards.

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 to respond to 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.