

Lesley Griffiths MS  
Minister for Environment, Energy and Rural Affairs

11 June 2020

Dear Lesley

### **The Agriculture Wages (Wales) Order 2020**

The Legislation, Justice and Constitution Committee considered the Agriculture Wages (Wales) Order 2020 (the Order) on 4 May 2020 and laid its report the same day. A Welsh Government response was received on 15 May, and therefore after our report was laid. As such, the response was discussed at our meeting on 1 June.

At our meeting on 8 June, we considered the Welsh Government's response further and, in our view, there remain matters which warrant further clarification.

You will know that the Order allows an employer who provides an agricultural worker with a house for a whole week to deduct the sum of £1.50 from the agricultural worker's wage payable for that week. However, where an employer provides an agricultural worker with other accommodation, the employer may deduct £4.82 from the agricultural worker's wage for each day the accommodation is provided.

The second technical reporting point in our report said

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"Further explanation is required in relation to why Article 15 of the Order sets significantly different wage deductions which are permitted to be made in respect of agricultural workers who receive the benefit of accommodation. (...)

It is surprising that an agricultural worker who is provided with a private self-contained house may only sustain a deduction of £1.50 per week for the benefit of living in that



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house. However, an agricultural worker who may only be provided with the lesser benefit of a bed in shared accommodation may sustain a deduction of £24.10 per week (based upon a five-day working week). A government response is required to explain the reasons for this discrepancy in deductions. We note that this point was also raised in our report on the Agricultural Wages (Wales) Order 2018 but the Government response on that occasion did not provide a full explanation for the discrepancy.”

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The reporting point was not accepted and the Welsh Government response said:

“Where an agricultural worker is required to live in a dwelling house or other self-contained accommodation by virtue of their contract of service for the proper or better performance of their duties, there is a mutual benefit to both parties. The agricultural worker is provided with the benefit of a house or other self-contained accommodation and the employer has the benefit of the agricultural worker living on site. Article 15(1) makes provision for a nominal deduction of £1.50 in recognition of this mutual benefit.

The provision in article 15(2) recognises that other accommodation is provided at an inconvenience and at additional cost to the employer while also ensuring the agricultural worker is not subjected to excessive daily accommodation charges. The agricultural worker is free to take up the option of other accommodation in accordance with article 15(2) and subject to the provision in article 15(3) and (4), or to find their own accommodation.”

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The Welsh Government’s response makes reference to accommodation provided “on site”. We have noted that “house” is defined in the Order as being a house that the agricultural worker is “required to live in for the proper or better performance of their duties”. However, the Order does not specify that the house must be ‘on site’. Further, Article 15 of the Order, which sets out the deductions permitted, makes no reference to a house being ‘on site’.

There therefore appears to be inconsistency between what the Order says and what the Welsh Government response says.

We would welcome clarity on this particular issue, and confirmation as to whether the Order and its Explanatory Memorandum need to be amended. This is important because, in light of the Welsh Government’s response, we are concerned that the people affected by the Order may be confused as to its scope and intent, and therefore how the law applies to them.

I am copying this letter to Jeremy Miles MS, the Counsel General, and Mike Hedges MS, Chair of the Climate Change, Environment and Rural Affairs Committee.



Yours sincerely,

A handwritten signature in black ink that reads "Mick Antoniw". The signature is fluid and cursive, with a horizontal line underneath the name.

Mick Antoniw MS  
Chair of the Legislation, Justice and Constitution Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.  
We welcome correspondence in Welsh or English.



Lesley Griffiths AS/MS  
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs



Mick Antoniw MS  
Chair of the Legislation, Justice and Constitution Committee

Llywodraeth Cymru  
Welsh Government

15 July 2020

Dear Mick

Thank you for your letter of 11 June 2020, regarding the Agricultural Wages (Wales) Order 2020. You have requested clarification of the Welsh Government's response to technical reporting point 2, on the accommodation offset allowance.

Article 2 of the Order refers to a dwelling house or self-contained accommodation that an agricultural worker is required to live in for the proper or better performance of their duties. It is not a requirement that a house for this purpose is provided on site, however, location of accommodation and proximity to the agricultural worker's place of work will be a significant factor in facilitating the 'proper or better performance of duties'.

Using stockpersons as an example, who may be required to work long or anti-social hours and respond to emergencies, living on or near their place of work would clearly be of considerable benefit. This would have been the case historically, and is still the case today.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I have noted the Committee's comments and will share the comments with the Agricultural Advisory Panel for Wales. The Panel's functions include reviewing the agricultural minimum wage regime and preparing draft agricultural wages orders for approval by the Welsh Ministers. The Panel has acknowledged the structure and provisions of the agricultural wages orders should be reviewed to ensure they continue to reflect the needs of today's agricultural industry. The Panel Chair has indicated this work, including a review of the accommodation offset allowance, will take place in September.

Regards

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

**Lesley Griffiths AS/MS**

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs