

Government Response: The Agricultural Wages (Wales) Order 2022

Technical Scrutiny Point 1: The Welsh Ministers are satisfied that the retrospective effect of The Agricultural Wages (Wales) Order 2022 is lawful. The Welsh Ministers are satisfied that the instrument is compatible with Article 1 Protocol 1 of the European Convention on Human Rights. The instrument is considered to strike a fair balance between the rights of individuals and the general interest and is proportionate.

The Welsh Ministers consider that the timescale between the Panel's submission of the revised draft Order on 20 December 2021 and the making and laying of the Order (on 31 March and 1 April 2022 respectively) is reasonable and did not require explanation within the Explanatory Memorandum.

Technical Scrutiny Point 2: There is a guidance note on the Welsh Government website which explains that the National Minimum Wage/National Living Wage rates increased from 1 April 2022¹. The guidance note includes a table setting out these uplifted rates and explains that these uplifted rates apply to the five new grades of agricultural worker and will continue to apply until a new Agricultural Wages Order is made or until they are superseded by further changes to the National Minimum Wages/National Living Wage. There is also a detailed guidance document which further explains this point².

Merits Scrutiny Point 3: It is noted that in some cases the increased rates for the National Minimum Wage/ National Living Wage which came into effect from 1 April 2022 exceed the minimum pay rates stipulated in the Order and have therefore superseded them. It is noted that, in the short-term, the minimum pay rates for Grades A4, B4 and C are the same.

The Panel are now finalising their proposals for the 2022/23 Order and will be submitting a draft Order for consideration by Welsh Ministers shortly. The proposed minimum pay rates in the 2022/23 Order, as consulted upon in January 2022³, will rectify this issue, as it is proposed that different rates of pay will apply to Grades A4, B4 and C.

Merits Scrutiny Point 4: The Welsh Government is committed to increasing the number of Explanatory Memorandum and Regulatory Impact Assessment for Statutory Instruments that are laid bilingually in the Senedd.

¹ <https://gov.wales/agricultural-wages-minimum-rates-pay>

² <https://gov.wales/agricultural-wages-guidance>

³ <https://gov.wales/terms-and-conditions-agricultural-workers-2022>

Standing order 15.4 of the Senedd requires all documents to be laid bilingually so far as is appropriate in the circumstances and reasonably practicable, and Standard 47 of the Welsh Language Standards (the statutory duties imposed on the Welsh Government by the Welsh Language Commissioner) requires us to consider the subject matter and the anticipated audience of certain documents to prioritise their translation. Under guidance provided by the Commissioner's office (in their Code of Practice on the Welsh Language Standards (No. 1) Regulations 2015), in prioritising these documents for translation at this time we considered issues such as whether the Regulations related to issues affecting the Welsh language directly, whether the Regulations were of great interest to Welsh speaking groups in particular, and whether a high proportion of the documents' audience would be Welsh speaking. As the Order is of a technical nature and will affect only an extremely small percentage of the population, the Explanatory Memorandum has not been deemed a priority for translation at this time.