

Lesley Griffiths MS
Minister for Rural Affairs and North Wales, and
Trefnydd

20 May 2022

Dear Lesley

The Agricultural Wages (Wales) Order 2022

At our meeting on 16 May 2022 we considered the Welsh Government's response to our report on The Agricultural Wages (Wales) Order 2022.

We raised concerns about the Order having retrospective effect and your response states that you are satisfied that such an approach is lawful. We note that the Agricultural Advisory Panel for Wales is finalising its proposals for a 2022/23 Order, with the Panel's consultation document suggesting that new rates of pay will apply "from April 2022". Given that we have passed 30 April 2022, we are led to believe that the 2022/23 Order will also apply retrospectively and we would be grateful if you could confirm whether this is your intention.

We would note that legislation which has retrospective effect is treated with particular care by this Committee. We are required by Standing Order 21.2(iv) to report on any instrument that has retrospective effect in the absence of express authority in the authorising enactment. In relation to agricultural wages orders, we are conscious that retrospective effect may cause unfairness and create uncertainty for agricultural workers and employers, particularly during a cost of living crisis.

The greater the period of retrospective effect, the greater the potential for unfairness. We would therefore welcome assurance from the Welsh Government that the use of retrospective effect in the 2022 Order (made on 31 March 2022) is an exception, and will not become the norm. If the 2022/23 Order is intended to have retrospective effect then we would urge the Welsh Government to proceed at pace with making and laying the Order. It would also be helpful to know how the Welsh Government intends to keep agricultural employers and workers in touch with developments about the making of the Order that is to apply from April 2022 and the possibility that a pay award may again need to be back-dated.

Our fourth reporting point asked for an explanation as to why the Explanatory Memorandum was not made available in Welsh. The Welsh Government response stated:

"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."

According to paragraph 58 of the Welsh Government's 2019 document [Agriculture in Wales](#), data from the 2011 census shows that:

"Agriculture, forestry and fishing has an estimated 10,600 Welsh speakers. This represents 43% of the total working population for the sector and is the highest share across sectors."

Given that the Explanatory Memorandum's anticipated audience would be agricultural workers and employers, of which a high proportion would be Welsh speaking, we believe there is a strong case that the document should be made available in Welsh.

We would be grateful therefore if you could commit to ensuring that future explanatory memoranda that accompany legislation on the agricultural sector are available bilingually.

Yours sincerely,

Huw Irranca-Davies

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Chair