

Jane Hutt AC/AM
Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-L-LG-0691-17

Elin Jones AM
Presiding Officer
National Assembly for Wales

2nd November 2017

Dear Elin,

The Agricultural Wages (Wales) Order 2017

In accordance with guidance I am notifying you that section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, which affords the rule that statutory instruments come into force at least 21 days from the date of laying, will be breached for the introduction of the above or Order. The Explanatory Memorandum is attached for your information.

Background

The Agricultural Advisory Panel for Wales (the Panel) was established under the Agricultural Sector (Wales) Act 2014 on 1 April 2016. The Panel's remit includes reviewing wages and other employment conditions and support skills and career development in the agricultural sector.

At present, agricultural workers in Wales are subject to the rates specified by the Agricultural Wages (Wales) Order 2016 (2016 Order). The order came into force on 26 February 2016 and was the first wages order made under the 2014 Act. Section 4(2) of the Act provided the Welsh Ministers with the power to introduce a wages order, before the Panel was established.

The Panel agreed to increase wages to agricultural workers and consulted on the proposals in the autumn of 2016. The Panel's original timeline proposed to have the new Order in force on 1 April, the same date the UK National Living Wage (NLW) and National Minimum Wage (NMW) increases took effect. New wage rates for agricultural workers in Scotland and Northern Ireland came into force on this day as well.

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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.

The Panel's aim was to align the agricultural minimum wage increase with NLW and NMW changes. However, the 1 April coming into force date was not achievable.

It was necessary to refer the Order back to the Panel for re-consideration which presented delays in bringing the new Order forward. Article 3(2) of the Agricultural Advisory Panel for Wales (Establishment) Order 2016, made under the Agricultural Sector (Wales) Act 2014, sets out the Panel's functions. The functions include preparing wages orders in draft and submitting these to the Welsh Ministers for approval. In accordance with Section 4(1) of the 2014 Act, the Welsh Ministers have the power to a) approve and make the order, or b) refer the order back to the Panel for further consideration.

The Panel proposed backdating all provisions within the 2017 Order. Giving retrospective effect to the 2017 Order would recompense those agricultural workers who had expected an increase in their hourly wage and allowances from the 1 April 2017.

This is the first time the Panel prepared a draft wages order since its establishment on 1 April 2016 and there have been some difficulties in setting up the effective process for making new wages orders as required under the statutory procedures of the Agricultural Sector (Wales) Act 2014 and the Agricultural Advisory Panel for Wales (Establishment) Order 2016.

Until the Agricultural Wages (Wales) Order 2017 comes into force, agricultural workers in Wales are subject to NLW/NMW levels which override some of the Agricultural Minimum Wage (AMW) levels in Wales. To minimise disruption and ensure workers are paid in accordance with the AMW rates agreed by the Panel, and above the UK NMW and NLW levels, it is proposed the Statutory Instrument will breach the 21 day rule.

A breach of the 21 day rule is thought necessary and justifiable in this case on the basis it will reduce any further delay in bringing uplifted agricultural wage rates into force, so minimising the time period agricultural workers in Wales continue to be subject to the UK NMW and NLW levels and 2016 Order rates, rather than the AMW rates set out in the Agricultural Wages (Wales) Order 2017.

An Explanatory Memorandum has been prepared and this has been laid, together with the Regulations, in Table Office.

A copy of this letter goes to Huw Irranca-Davies AM, Chair of the Constitutional and Legislative Affairs Committee and Chris Warner, Head of Policy and Legislation Committee Service.



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