

# SL(5)208 – The Agricultural Wages (Wales) Order 2018

## Background and Purpose

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The Agricultural Wages (Wales) Order 2018 ("the 2018 Order") makes provision about the minimum rates of remuneration and other terms and conditions of employment for agricultural workers.

The 2018 Order revokes and replaces the Agricultural Wages (Wales) Order 2017 ("the 2017 Order") with changes which increase the 2017 pay levels for agricultural workers.

## Procedure

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Negative.

## Technical Scrutiny

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Two points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### **1. Standing Order 21.2(v) – the meaning of the instrument needs further explanation.**

In brief, article 15(1) says that, where an employer provides an agricultural worker with a house, the employer may deduct £1.50 an hour from the agricultural worker's minimum wage.

In brief, article 15(2) says that, where an employer provides an agricultural worker with "other accommodation", the employer may deduct £4.82 an hour from the agricultural worker's minimum wage.

A deduction of £4.82 an hour appears to be a very large deduction given the hourly rates that apply to agricultural workers. We would therefore appreciate: (1) confirmation whether our understanding of articles 15(1) and 15(2) is correct, and (2) further information around the provision of "other accommodation" and the deduction allowed under article 15(2).

### **2. Standing Order 21.2(vii) – there appears to be inconsistency between the meaning of the English and Welsh texts.**

Article 43(2) in the Welsh makes transitional arrangements for "an agricultural worker employed as a worker at a Grade or as an apprentice but not as a flexible worker".

Article 43(2) in the English makes transitional arrangements for "an agricultural worker employed as a worker at a Grade or as an apprentice". In the English, therefore, there is no mention of flexible workers.

## Merits Scrutiny

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One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

### **1. Standing Order 21.3(ii) – the instrument is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.**

We would welcome clarification as to why this 2018 Order was not made until 27 March 2018 and not laid until after 4pm on 29 March 2018 (Maundy Thursday), particularly given its coming into force date of 1 April 2018 (Easter Sunday).



We note that consultation took place in autumn 2017, and that changes in the rates of national minimum and living wages were made in late November 2017 which resulted in a review. We would welcome clarification as to why the review took over 4 months to be reflected in a final 2018 Order.

We would also welcome an explanation as to why we were not formally notified in advance of the problems with this Order given that the breach of the 21-day rule occurred on 9 March 2018.

As well as for issues of timing and communication, we also feel the need to raise this concern because last year's order (i.e. the 2017 Order) also breached the 21-day rule, when it was made on 2 November 2017 and came into force on 3 November 2017.

## Implications arising from exiting the European Union

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No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Government Response

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A government response is required.

### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**12 April 2018**

