



Agricultural Sector (Wales) Act 2014

2014 anaw 6

An Act of the National Assembly for Wales to make provision in relation to the agricultural sector in Wales; and for connected purposes. [30 July 2014]

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:-

Annotations:

Modifications etc. (not altering text)

- C1 For expiry of Act see
[s. 14\(1\)](#)
- C2 [Act](#)
continued (19.4.2018) by
[The Agricultural Sector \(Wales\) Act 2014 \(Continuation of Effect\) Order 2018 \(S.I. 2018/515\)](#)
,
[art. 2](#)

Introduction

1 Overview

This Act makes provision for—

- (a) the establishment of the Agricultural Advisory Panel for Wales,
- (b) the making of orders which set the terms and conditions for persons employed in agriculture in Wales (“agricultural workers”), and
- (c) the enforcement of such terms and conditions.

Changes to legislation: There are currently no known outstanding effects for the Agricultural Sector (Wales) Act 2014. (See end of Document for details)

Agricultural Advisory Panel for Wales

2 Agricultural Advisory Panel for Wales

- (1) The Welsh Ministers must, by order, establish a panel to be known as the Agricultural Advisory Panel for Wales (“the Panel”) to carry out the functions listed in subsection (2).
- (2) The functions are—
 - (a) promoting careers in agriculture;
 - (b) preparing agricultural wages orders in draft, consulting on such orders and submitting them to the Welsh Ministers for approval;
 - (c) advising the Welsh Ministers on such other matters relating to the agricultural sector in Wales as the Welsh Ministers may require;
 - (d) such other functions as the Welsh Ministers may specify in the order.
- (3) The Panel is to consist of—
 - (a) a member to chair the Panel, and
 - (b) at least 3, but not more than 10, other members.
- (4) In exercising any functions in relation to the membership of the Panel, the Welsh Ministers must seek to ensure that the membership—
 - (a) includes persons with the skills and expertise necessary to enable the Panel to perform its functions efficiently and effectively, and
 - (b) adequately reflects the interests of all parts of the agricultural sector.
- (5) The Welsh Ministers may, by order, make provision—
 - (a) about the constitution and proceedings of the Panel;
 - (b) about the appointment of members to the Panel;
 - (c) about the general powers of the Panel;
 - (d) adding, amending or removing functions of the Panel.
- (6) Before making an order under this section the Welsh Ministers must consult such persons as they consider appropriate.

Agricultural wages orders

3 Agricultural wages orders

- (1) An agricultural wages order is an order making provision about the minimum rates of remuneration and other terms and conditions of employment for agricultural workers.
- (2) An agricultural wages order may, in particular, include provision—
 - (a) specifying the minimum rates of remuneration to be paid to agricultural workers (including rates for periods when such workers are absent in consequence of sickness or injury);
 - (b) about any benefits or advantages which, for the purposes of a minimum rate of remuneration, may be reckoned as remuneration in lieu of payment in cash;
 - (c) requiring employers of agricultural workers to allow such workers to take such holidays and other leave as may be specified in the order.

Changes to legislation: There are currently no known outstanding effects for the Agricultural Sector (Wales) Act 2014. (See end of Document for details)

- (3) An agricultural wages order may specify different rates and make different provision for different descriptions of agricultural workers.
- (4) An agricultural wages order may not include any provision about the pensions of agricultural workers.
- (5) No minimum rate of remuneration may be specified in an order under this section which is less than the national minimum wage.

4 Agricultural wages orders: powers of the Welsh Ministers

- (1) The Welsh Ministers may, after receiving a draft agricultural wages order from the Panel—
 - (a) approve and make the order, or
 - (b) refer the order back to the Panel for further consideration and resubmission.
- (2) The Welsh Ministers may, of their own initiative, make agricultural wages orders until such time as the Panel is established.
- (3) Before making an agricultural wages order under subsection (2), the Welsh Ministers must consult such persons or bodies as they consider are likely to have an interest in the order.
- (4) The Welsh Ministers may, by regulations, make further provision about agricultural wages orders including, in particular, provision—
 - (a) about the form and content of an order, and
 - (b) about the procedure to be followed and consultation to be carried out in relation to an order.

Enforcement

5 Enforcement of minimum rates

- (1) The enforcement provisions of the 1998 Act listed in subsection (2) are to have effect for the purposes of this Act as they have effect for the purposes of that Act (except so far as they relate to Northern Ireland or Scotland), but with the modifications specified in subsections (3) to (7) of this section.
- (2) The enforcement provisions are—
 - (a) sections 10 and 11 (records);
 - (b) section 14 (powers of officers);
 - (c) section 17 (entitlement of worker to additional remuneration), except for subsection (3);
 - (d) section 19 (notices of underpayment: arrears);
 - (e) section 19C (notices of underpayment: appeals), except for subsections (1)(c) and (6) and, so far as relating to appeals under subsection (1)(c), subsection (8);
 - (f) section 19D (non-compliance with notice of underpayment: recovery of arrears);
 - (g) section 19F (withdrawal of notice of underpayment), except for subsections (2)(a) and (4);

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- (h) section 19G (replacement notice of underpayment);
 - (i) section 19H (effect of replacement notice of underpayment), except for subsections (4) and (5);
 - (j) sections 23 and 24 (right not to suffer detriment);
 - (k) section 28 (evidence: reversal of burden of proof in civil proceedings);
 - (l) sections 31 and 33 (offences);
 - (m) section 48 (superior employers);
 - (n) section 49 (restriction on contracting out).
- (3) In the application of any of those enforcement provisions—
- (a) any reference to the 1998 Act, other than a reference to a specific provision of it, includes a reference to this Act;
 - (b) any reference to a worker (within the meaning of the 1998 Act) is to be construed as a reference to an agricultural worker (within the meaning of this Act);
 - (c) any reference to a person (however described) who qualifies for the national minimum wage is to be construed as a reference to an agricultural worker;
 - (d) any reference to a record includes a reference to any record which the employer of an agricultural worker is required to keep and preserve in accordance with regulations made under section 7 of this Act;
 - (e) any reference to an officer acting for the purposes of the 1998 Act is to be construed as a reference to an officer acting for the purposes of this Act;
 - (f) subject to paragraph (c), any reference to the national minimum wage, other than a reference to the hourly amount of the national minimum wage, is to be construed as a reference to the minimum rate applicable by virtue of this Act;
 - (g) subject to paragraph (c), any reference to qualifying for the national minimum wage is to be construed as being entitled to the minimum rate applicable by virtue of this Act.
- (4) In the application of sections 10(10), 14(1)(a) and 31 of the 1998 Act, the references to a record required to be kept in accordance with regulations made under section 9 of the 1998 Act includes references to a record required to be kept in accordance with regulations made under section 7 of this Act.
- (5) In the application of section 14 of the 1998 Act, after subsection (2) insert—
- “(2A) Where an officer wishes to exercise the power under paragraph (d) of subsection (1) in relation to a dwelling house, the officer must first give reasonable notice.”
- (6) In the application of section 17 of the 1998 Act—
- (a) for subsection (2) substitute—
 - “(2) The amount referred to in subsection (1)(a) is the difference between
 - (a) the remuneration received by the worker as an agricultural worker for the pay reference period from the worker's employer, and
 - (b) the amount which the worker would have received as an agricultural worker for that period had the worker been remunerated by the employer at the minimum rate applicable by virtue of the Agricultural Sector (Wales) Act 2014;”

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(b) for subsection (4) substitute—

“(4) the amount referred to in subsection (1)(b) is the amount determined by the formula—

$$(A / R1) \times R2$$

where—

A is the amount described in subsection (2),

R1 is the minimum rate applicable by virtue of the Agricultural Sector (Wales) Act 2014 in respect of the worker during the pay reference period, and

R2 is the minimum rate which would have been applicable by virtue of that Act in respect of the worker during the pay reference period had the minimum rate applicable by virtue of that Act in respect of the worker during that period been determined by reference to any order under section 3 of that Act in force at the time of determination.”

(7) In the application of section 33(1A) of the 1998 Act (authorisation for conducting proceedings) for “Secretary of State” substitute “ Welsh Ministers ”.

(8) In section 104A of the Employment Rights Act 1996 (unfair dismissal: national minimum wage), in subsection (1)(c)—

(a) any reference to a person qualifying for the national minimum wage includes a reference to a person being or becoming entitled to a minimum rate applicable by virtue of this Act, and

(b) any reference to a person qualifying for a particular rate of national minimum wage includes a reference to a person being or becoming entitled to a particular minimum rate applicable by virtue of this Act.

6 Enforcement of holiday entitlement

(1) It is an offence for an employer of an agricultural worker to fail to allow the worker to take the holidays specified in an agricultural wages order.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) In any proceedings against a person under this section it is for the person to prove that the agricultural worker was allowed to take the holidays to which the worker was entitled.

Records

7 Duty of employers to keep records

(1) For the purposes of this Act, the Welsh Ministers may, by regulations, make provision requiring employers of agricultural workers—

(a) to keep, in such form and manner as may be specified, such records as may be specified, and