



# Deddf Sector Amaethyddol (Cymru) 2014

2014 dccc 6

# Agricultural Sector (Wales) Act 2014

2014 anaw 6

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Lluniwyd Nodiadau Esboniadol yn gymorth i ddeall y Ddeddf hon ac maent ar gael ar wahân.

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately.

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# Deddf Sector Amaethyddol (Cymru) 2014

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# Agricultural Sector (Wales) Act 2014

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# Deddf Sector Amaethyddol (Cymru) 2014

Deddf gan Gynulliad Cenedlaethol Cymru i wneud darpariaeth mewn perthynas â'r sector amaethyddol yng Nghymru; ac at ddibenion cysylltiedig. [30 Gorffennaf 2014]

**Gan ei fod wedi ei basio gan Gynulliad Cenedlaethol Cymru ac wedi derbyn cydsyniad Ei Mawrhydi, deddfir fel a ganlyn:-**

## *Cyflwyniad*

### **1 Trosolwg**

Mae'r Ddeddf hon yn gwneud darpariaeth ynghylch –

- (a) sefydlu Panel Cyngori ar Amaethyddiaeth Cymru,
- (b) gwneud gorchmynion sy'n nodi'r telerau a'r amodau ar gyfer personau a gyflogir mewn amaethyddiaeth yng Nghymru ("gweithwyr amaethyddol"), ac
- (c) gorfodi'r telerau a'r amodau hynny.

*Panel Cyngori ar Amaethyddiaeth Cymru*

### **2 Panel Cyngori ar Amaethyddiaeth Cymru**

- (1) Rhaid i Weinidogion Cymru, drwy orchymyn, sefydlu panel a elwir Panel Cyngori ar Amaethyddiaeth Cymru ("y Panel") i gyflawni'r swyddogaethau a restrir yn is-adran (2).
- (2) Y swyddogaethau yw –
  - (a) hybu gyrfaoedd mewn amaethyddiaeth;
  - (b) llunio gorchmynion cyflogau amaethyddol ar ffurf ddrafft, ymgynghori ar y gorchmynion hynny a'u cyflwyno i Weinidogion Cymru i'w cymeradwyo;
  - (c) cynghori Gweinidogion Cymru ar unrhyw faterion eraill sy'n ymwneud â'r sector amaethyddol yng Nghymru sy'n ofynnol gan Weinidogion Cymru;
  - (d) unrhyw swyddogaethau eraill a bennir gan Weinidogion Cymru yn y gorchymyn.
- (3) Mae'r Panel i gynnwys –
  - (a) aelod i gadeirio'r Panel, a



# Agricultural Sector (Wales) Act 2014

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:-**

## *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.

## *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) o leiaf 3, ond dim mwy na 10, aelod arall.
- (4) Wrth arfer unrhyw swyddogaethau mewn perthynas ag aelodaeth y Panel, rhaid i Weinidogion Cymru geisio sicrhau bod yr aelodaeth—
  - (a) yn cynnwys personau â'r sgiliau a'r arbenigedd sy'n angenrheidiol er mwyn galluogi'r Panel i gyflawni ei swyddogaethau yn effeithlon ac yn effeithiol, a
  - (b) yn adlewyrchu buddiannau pob rhan o'r sector amaethyddol yn ddigonol.
- (5) Caiff Gweinidogion Cymru, drwy orchymyn, wneud darpariaeth—
  - (a) ynghylch cyfansoddiad a thrafodion y Panel;
  - (b) ynghylch penodi aelodau i'r Panel;
  - (c) ynghylch pwerau cyffredinol y Panel;
  - (d) sy'n ychwanegu at swyddogaethau'r Panel, yn eu diwygio neu yn eu dileu.
- (6) Cyn gwneud gorchymyn o dan yr adran hon rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.

*Gorchmynion cyflogau amaethyddol*

### 3 Gorchmynion cyflogau amaethyddol

- (1) Mae gorchymyn cyflogau amaethyddol yn orchymyn sy'n gwneud darpariaeth ynghylch cyfraddau tâl isaf gweithwyr amaethyddol ac ynghylch telerau ac amodau cyflogaeth eraill y gweithwyr hynny.
- (2) Caiff gorchymyn cyflogau amaethyddol, yn benodol, gynnwys darpariaeth—
  - (a) sy'n pennu'r cyfraddau tâl isaf sydd i'w talu i weithwyr amaethyddol (gan gynnwys cyfraddau ar gyfer cyfnodau pan fo gweithwyr o'r fath yn absennol o ganlyniad i salwch neu anaf);
  - (b) ynghylch unrhyw fuddion neu fanteision y caniateir iddynt, at ddibenion cyfradd tâl isaf, gael eu hystyried yn dâl yn lle taliad arian parod;
  - (c) sy'n ei gwneud yn ofynnol i gyflogwyr gweithwyr amaethyddol ganiatáu i weithwyr o'r fath gymryd unrhyw wyliau ac absenoldeb arall a bennir yn y gorchymyn.
- (3) Caiff gorchymyn cyflogau amaethyddol bennu cyfraddau gwahanol a gwneud darpariaeth wahanol ar gyfer gweithwyr amaethyddol o ddisgrifiadau gwahanol.
- (4) Ni chaniateir i orchymyn cyflogau amaethyddol gynnwys unrhyw ddarpariaeth ynghylch pensiynau gweithwyr amaethyddol.
- (5) Ni chaniateir pennu cyfradd tâl isaf mewn gorchymyn o dan yr adran hon sy'n llai na'r isafswm cyflog cenedlaethol.

### 4 Gorchmynion cyflogau amaethyddol: pwerau Gweinidogion Cymru

- (1) Caiff Gweinidogion Cymru, ar ôl cael gorchymyn cyflogau amaethyddol drafft oddi wrth y Panel—
  - (a) cymeradwyo a gwneud y gorchymyn, neu
  - (b) cyfeirio'r gorchymyn yn ôl at y Panel i'w ystyried ymhellach a'i ailgyflwyno.



- (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.
- (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) Caiff Gweinidogion Cymru, o'u pen a'u pastwn eu hunain, wneud gorchmynion cyflogau amaethyddol hyd nes bod y Panel wedi ei sefydlu.
- (3) Cyn gwneud gorchmyn cyflogau amaethyddol o dan is-adran (2), rhaid i Weinidogion Cymru ymgynghori â'r personau neu'r cyrff hynny sy'n debygol o fod â buddiant yn y gorchmyn yn eu barn hwy.
- (4) Caiff Gweinidogion Cymru, drwy reoliadau, wneud darpariaeth bellach ynghylch gorchmynion cyflogau amaethyddol gan gynnwys, yn benodol, ddarpariaeth—
  - (a) ynghylch ffurf a chynnwys gorchmyn, a
  - (b) ynghylch y weithdrefn i'w dilyn a'r ymgynghori i'w gynnal mewn perthynas â gorchmyn.

### *Gorfodi*

## 5 **Gorfodi'r cyfraddau isaf**

- (1) Mae darpariaethau gorfodi Deddf 1998 sydd wedi eu rhestru yn is-adran (2) i gael effaith at ddibenion y Ddeddf hon fel y maent yn cael effaith at ddibenion y Ddeddf honno (ac eithrio i'r graddau yn maent yn ymwneud â Gogledd Iwerddon neu'r Alban), ond gyda'r addasiadau a nodir yn is-adrannau (3) i (7) o'r adran hon.
- (2) Mae'r darpariaethau gorfodi fel a ganlyn—
  - (a) adrannau 10 ac 11 (cofnodion);
  - (b) adran 14 (pwerau swyddogion);
  - (c) adran 17 (hawl gweithiwr i dâl ychwanegol), ac eithrio is-adran (3);
  - (d) adran 19 (hysbysiadau o dandaliad: ôl-ddyledion);
  - (e) adran 19C (hysbysiadau o dandaliad: apelau), ac eithrio is-adrannau (1)(c) a (6) ac, i'r graddau y mae'n ymwneud ag apelau o dan is-adran (1)(c), is-adran (8);
  - (f) adran 19D (peidio â chydymffurfio â hysbysiad o dandaliad: adennill ôl-ddyledion);
  - (g) adran 19F (tynnu hysbysiad o dandaliad yn ôl), ac eithrio is-adrannau (2)(a) a (4);
  - (h) adran 19G (hysbysiad o dandaliad wedi ei amnewid);
  - (i) adran 19H (effaith hysbysiad o dandaliad wedi ei amnewid), ac eithrio is-adrannau (4) a (5);
  - (j) adrannau 23 a 24 (yr hawl i beidio â dioddef niwed);
  - (k) adran 28 (tystiolaeth: gwrthdroi'r baich profi mewn achosion sifil);
  - (l) adrannau 31 a 33 (troseddau);
  - (m) adran 48 (uwch gyflogwyr);
  - (n) adran 49 (cyfyngiad ar gontractio allan).
- (3) Wrth gymhwyso unrhyw rai o'r darpariaethau gorfodi hynny—
  - (a) mae unrhyw gyfeiriad at Ddeddf 1998, ac eithrio cyfeiriad at ddarpariaeth benodol ynddi, yn cynnwys cyfeiriad at y Ddeddf hon;

- (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);
  - (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) mae unrhyw gyfeiriad at weithiwr (o fewn ystyr Deddf 1998) i gael ei ddehongli fel cyfeiriad at weithiwr amaethyddol (o fewn ystyr y Ddeddf hon);
- (c) mae unrhyw gyfeiriad at berson (sut bynnag y'i disgrifir) sy'n gymwys i gael yr isafswm cyflog cenedlaethol i gael ei ddehongli fel cyfeiriad at weithiwr amaethyddol;
- (d) mae unrhyw gyfeiriad at gofnod yn cynnwys cyfeiriad at unrhyw gofnod y mae'n ofynnol i gyflogwr gweithiwr amaethyddol ei gadw a'i ddiogelu yn unol â rheoliadau a wneir o dan adran 7 o'r Ddeddf hon;
- (e) mae unrhyw gyfeiriad at swyddog yn gweithredu at ddibenion Deddf 1998 i gael ei ddehongli fel cyfeiriad at swyddog yn gweithredu at ddibenion y Ddeddf hon;
- (f) yn ddarostyngedig i baragraff (c), mae unrhyw gyfeiriad at yr isafswm cyflog cenedlaethol, ac eithrio cyfeiriad at swm fesul awr yr isafswm cyflog cenedlaethol, i gael ei ddehongli fel cyfeiriad at y gyfradd isaf sy'n gymwys yn rhinwedd y Ddeddf hon;
- (g) yn ddarostyngedig i baragraff (c), mae unrhyw gyfeiriad at fod yn gymwys i gael yr isafswm cyflog cenedlaethol i gael ei ddehongli fel bod â'r hawl i'r gyfradd isaf sy'n gymwys yn rhinwedd y Ddeddf hon.
- (4) Wrth gymhwyso adrannau 10(10), 14(1)(a) a 31 o Ddeddf 1998, mae'r cyfeiriadau at gofnod y mae'n ofynnol i'w gadw yn unol â rheoliadau a wneir o dan adran 9 o Ddeddf 1998 yn cynnwys cyfeiriadau at gofnod y mae'n ofynnol i'w gadw yn unol â rheoliadau a wneir o dan adran 7 o'r Ddeddf hon.
- (5) Wrth gymhwyso adran 14 o Ddeddf 1998, ar ôl is-adran (2) mewnosoder –
- “(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) Wrth gymhwyso adran 17 o Ddeddf 1998 –
- (a) yn lle is-adran (2) rhodder –
- “(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;”,
- (b) yn lle is-adran (4) rhodder –
- “(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),

- (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;”,
  - (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) Wrth gymhwyso adran 33(1A) o Ddeddf 1998 (awdurdodiad ar gyfer cynnal achosion) yn lle "Secretary of State" rhodder "Welsh Ministers".
- (8) Yn adran 104A o Ddeddf Hawliau Cyflogaeth 1996 (diswyddo annheg: isafswm cyflog cenedlaethol), yn is-adran (1)(c) –
  - (a) mae unrhyw gyfeiriad at berson sy'n gymwys i gael yr isafswm cyflog cenedlaethol yn cynnwys cyfeiriad at berson sydd â'r hawl neu fydd â'r hawl i gyfradd isaf sy'n gymwys yn rhinwedd y Ddeddf hon, a
  - (b) mae unrhyw gyfeiriad at berson sy'n gymwys i gael cyfradd benodol o'r isafswm cyflog cenedlaethol yn cynnwys cyfeiriad at berson sydd â'r hawl neu fydd â'r hawl i gyfradd isaf benodol sy'n gymwys yn rhinwedd y Ddeddf hon.

## 6 Gorfodi'r hawl i wyliau

- (1) Mae'n drosedd i gyflogwr gweithiwr amaethyddol i fethu â chaniatáu i'r gweithiwr gymryd y gwyliau a bennir mewn gorchymyn cyflogau amaethyddol.
- (2) Mae person sy'n euog o drosedd o dan yr adran hon yn atebol ar gollfarn ddiannod i ddirwy heb fod yn uwch na lefel 3 ar y raddfa safonol.
- (3) Mewn unrhyw achos yn erbyn person o dan yr adran hon, y person sydd i brofi bod y gweithiwr amaethyddol wedi cael caniatâd i gymryd y gwyliau yr oedd gan y gweithiwr hwnnw hawl i'w cymryd.

### *Cofnodion*

## 7 Dyletswydd ar gyflogwyr i gadw cofnodion

- (1) At ddibenion y Ddeddf hon, caiff Gweinidogion Cymru wneud darpariaeth, drwy reoliadau, sy'n ei gwneud yn ofynnol i gyflogwyr gweithwyr amaethyddol –
  - (a) cadw, ar y ffurf ac yn y modd a bennir, y cofnodion hynny a bennir, a
  - (b) diogelu'r cofnodion hynny am y cyfnod hwnnw a bennir.
- (2) Yn yr adran hon, ystyr "a bennir" yw wedi ei bennu yn y rheoliadau a wneir o dan is-adran (1).

### *Swyddogion gorfodi amaethyddol*

## 8 Penodi swyddogion

- (1) Caiff Gweinidogion Cymru benodi swyddogion i weithredu yng Nghymru at ddibenion y Ddeddf hon.

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
  - (b) to preserve those records for such period as may be specified.
- (2) In this section, “specified” means specified in the regulations made under subsection (1).

### *Agricultural enforcement officers*

## **8 Appointment of officers**

- (1) The Welsh Ministers may appoint officers to act in Wales for the purposes of this Act.

- (2) Rhaid i swyddog, os gofynnir iddo wneud hynny, ddangos rhyw ddogfen a ddilyswyd yn briodol ac sy'n dangos bod gan y swyddog yr awdurdod i weithredu.
- (3) Os ymddengys i swyddog, wrth iddo weithredu at ddibenion y Ddeddf hon, nad yw unrhyw berson y mae'r swyddog yn ymdrin ag ef yn ymwybodol bod y swyddog yn gweithredu yn y fath fodd, rhaid i'r swyddog hysbysu'r person am y ffaith honno.

## 9 Gwybodaeth a ddaw i feddiant swyddogion

- (1) Caniateir rhoi gwybodaeth a ddaw i feddiant swyddog sy'n gweithredu at ddibenion y Ddeddf hon—
  - (a) i Weinidogion Cymru, a
  - (b) pan fo'n ymwneud â gweithiwr amaethyddol adnabyddadwy, i'r gweithiwr hwnnw.
- (2) Ni chaniateir i Weinidogion Cymru roi'r wybodaeth i unrhyw berson neu gorff arall oni bai bod yr wybodaeth yn cael ei rhoi at ddibenion unrhyw achos sifil neu achos troseddol sy'n ymwneud â'r Ddeddf hon.
- (3) Nid yw'r adran hon yn cyfyngu ar yr amgylchiadau lle y caniateir rhoi neu ddefnyddio gwybodaeth ac eithrio ar gyfer yr adran hon.

*Amrywiol*

## 10 Ystyr "yr isafswm cyflog cenedlaethol"

- (1) Yn ddarostyngedig i is-adrannau (2) i (5), ystyr "yr isafswm cyflog cenedlaethol" yw'r gyfradd sengl yr awr sydd mewn grym am y tro yn rhinwedd y rheoliadau o dan adran 1(3) o Ddeddf 1998.
- (2) Mae is-adran (3) yn gymwys, yn achos personau o unrhyw ddisgrifiad, os yw rheoliadau o dan adran 3(2) o Ddeddf 1998 yn eu hatal rhag bod yn bersonau sydd (o fewn ystyr y Ddeddf honno) yn gymwys i gael yr isafswm cyflog cenedlaethol.
- (3) Mae'r Ddeddf hon i gael effaith mewn perthynas â phersonau o'r disgrifiad hwnnw fel petai'r isafswm cyflog cenedlaethol yn ddim.
- (4) Mae is-adran (5) yn gymwys, yn achos personau o unrhyw ddisgrifiad, os yw rheoliadau o dan adran 3(2) o Ddeddf 1998 yn rhagnodi cyfradd ("y gyfradd ostyngol") ar gyfer yr isafswm cyflog cenedlaethol sy'n wahanol i'r gyfradd sengl yr awr a ragnodir am y tro o dan adran 1(3) o'r Ddeddf honno.
- (5) Mae'r Ddeddf hon i gael effaith mewn perthynas â phersonau o'r disgrifiad hwnnw fel petai'r isafswm cyflog cenedlaethol yn cyfateb i'r gyfradd ostyngol.

## 11 Diwygio'r Rheoliadau Oriau Gwaith

- (1) Mae Rheoliadau Oriau Gwaith 1998 (OS 1998/1833) wedi eu diwygio fel a ganlyn.
- (2) Yn rheoliad 2 (dehongli), yn y diffiniad o "worker employed in agriculture", ar ôl "agriculture" mewnosoder "means, in relation to Wales, an agricultural worker within the meaning of section 18 of the Agricultural Sector (Wales) Act 2014 and otherwise".
- (3) Ym mharagraff 3 o Atodlen 2 (gweithwyr a gyflogir mewn amaethyddiaeth), ar ôl "1948" mewnosoder ", section 3 of the Agricultural Sector (Wales) Act 2014".



- (2) An officer must, upon request, produce some duly authenticated document showing the officer's authority to act.
- (3) If it appears to an officer that, when acting for the purposes of this Act, any person with whom the officer is dealing is unaware that the officer is so acting, the officer must inform the person of that fact.

## **9 Information obtained by officers**

- (1) Information that has been obtained by an officer acting for the purposes of this Act—
  - (a) may be supplied to the Welsh Ministers, and
  - (b) where it relates to an identifiable agricultural worker, may be supplied to that worker.
- (2) The Welsh Ministers must not supply the information to any other person or body unless it is supplied for the purposes of any civil or criminal proceedings relating to this Act.
- (3) This section does not limit the circumstances in which information may be supplied or used apart from this section.

### *Miscellaneous*

## **10 Meaning of “the national minimum wage”**

- (1) Subject to subsections (2) to (5), “the national minimum wage” means the single hourly rate for the time being in force by virtue of regulations under section 1(3) of the 1998 Act.
- (2) Subsection (3) applies if, in the case of persons of any description, regulations under section 3(2) of the 1998 Act prevent them from being persons who (within the meaning of that Act) qualify for the national minimum wage.
- (3) This Act is to have effect in relation to persons of that description as if the national minimum wage were nil.
- (4) Subsection (5) applies if, in the case of persons of any description, regulations under section 3(2) of the 1998 Act prescribe a rate (“the reduced rate”) for the national minimum wage other than the single hourly rate for the time being prescribed under section 1(3) of that Act.
- (5) This Act is to have effect in relation to persons of that description as if the national minimum wage were the reduced rate.

## **11 Amendment of Working Time Regulations**

- (1) The Working Time Regulations 1998 (SI 1998/1833) are amended as follows.
- (2) In regulation 2 (interpretation), in the definition of “worker employed in agriculture”, after “agriculture” insert “means, in relation to Wales, an agricultural worker within the meaning of section 18 of the Agricultural Sector (Wales) Act 2014 and otherwise”.
- (3) In paragraph 3 of Schedule 2 (workers employed in agriculture), after “1948” insert “, section 3 of the Agricultural Sector (Wales) Act 2014”.

**12 Darpariaeth drosiannol**

- (1) Er gwaethaf y darpariaethau a restrir yn is-adran (2), mae darpariaethau Gorchymyn Cyflogau 2012 i gael effaith o ran gweithwyr amaethyddol ar 1 Hydref 2013 ac wedi hynny hyd nes y bydd Gweinidogion Cymru yn gwneud gorchymyn cyflogau amaethyddol.
- (2) Mae'r darpariaethau fel a ganlyn –
  - (a) adran 72(4) a pharagraff 2 o Atodlen 20 i Ddeddf Menter a Diwygio Rheoleiddio 2013;
  - (b) erthygl 4 o Orchymyn Deddf Menter a Diwygio Rheoleiddio 2013 (Cychwyn Rhif 1, Darpariaethau Trosiannol ac Arbedion) 2013 (OS 2013/1455).
- (3) Mae darpariaethau Gorchymyn Cyflogau 2012, at ddibenion unrhyw hawl neu atebolrwydd a gronnir oddi tanynt ar 1 Hydref 2013 neu wedi hynny, i gael eu trin fel petaent yn ddarpariaethau gorchymyn cyflogau amaethyddol a wnaed o dan adran 3 o'r Ddeddf hon.
- (4) Os yw'r isafswm cyflog cenedlaethol yn uwch nag unrhyw gyfradd isaf sy'n gyfradd fesul awr a nodir yn narpariaethau Gorchymyn Cyflogau 2012, bernir mai'r gyfradd isaf dan sylw yw'r isafswm cyflog cenedlaethol.
- (5) Os yw'r isafswm cyflog cenedlaethol yn swm sy'n golygu bod cyfradd isaf (ac eithrio cyfradd isaf sy'n gyfradd fesul awr) yn narpariaethau Gorchymyn Cyflogau 2012 yn rhoi cyfradd tâl lai am bob awr a weithir na swm fesul awr yr isafswm cyflog cenedlaethol, bernir bod y gyfradd isaf dan sylw yn gyfradd sy'n rhoi tâl am bob awr a weithir sydd gyfwerth â swm fesul awr yr isafswm cyflog cenedlaethol.
- (6) Yn yr adran hon, ystyr "darpariaethau Gorchymyn Cyflogau 2012" yw darpariaethau Gorchymyn Cyflogau Amaethyddol (Cymru a Lloegr) 2012 (fel y'i gwnaed gan Fwrdd Cyflogau Amaethyddol Cymru a Lloegr ar 20 Gorffennaf 2012).

**13 Adroddiad ar weithrediad ac effaith y Ddeddf hon**

- (1) Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol ar ôl diwedd y cyfnod adolygu, osod gerbron Cynulliad Cenedlaethol Cymru adroddiad ar weithrediad ac effaith y Ddeddf hon yn ystod y cyfnod hwnnw.
- (2) Rhaid i'r adroddiad, yn benodol, gynnwys gwybodaeth am yr effaith y mae gweithrediad y Ddeddf hon wedi ei chael ar –
  - (a) gweithwyr amaethyddol,
  - (b) cyflogwyr gweithwyr amaethyddol, ac
  - (c) y sector amaethyddol yn gyffredinol.
- (3) Cyn llunio'r adroddiad, rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.
- (4) Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol ar ôl i'r adroddiad gael ei osod gerbron Cynulliad Cenedlaethol Cymru, gyhoeddi'r adroddiad yn y modd sy'n briodol yn eu barn hwy.
- (5) Yn yr adran hon ystyr "y cyfnod adolygu" yw'r cyfnod o 3 blynedd sy'n dechrau ar y diwrnod y daw'r Ddeddf hon i rym.

**12 Transitional provision**

- (1) Notwithstanding the provisions listed in subsection (2), the provisions of the 2012 Wages Order are to have effect in relation to agricultural workers on and from 1 October 2013 until such time as the Welsh Ministers make an agricultural wages order.
- (2) The provisions are—
  - (a) section 72(4) and paragraph 2 of Schedule 20 to the Enterprise and Regulatory Reform Act 2013;
  - (b) article 4 of the Enterprise and Regulatory Reform Act 2013 (Commencement No. 1, Transitional Provisions and Savings) Order 2013 (SI 2013/1455).
- (3) The provisions of the 2012 Wages Order are, for the purposes of any right or liability accrued under them on or after 1 October 2013, to be treated as if they are provisions of an agricultural wages order made under section 3 of this Act.
- (4) In the event that the national minimum wage exceeds any minimum rate in the provisions of the 2012 Wages Order which is an hourly rate, the minimum rate in question is deemed to be the national minimum wage.
- (5) In the event that the national minimum wage is such that a minimum rate (other than an minimum rate which is an hourly rate) in the provisions of the 2012 Wages Order yields a lesser amount of remuneration for each hour worked than the hourly amount of the national minimum wage, the minimum rate in question is deemed to be a rate such as to yield an amount of remuneration for each hour worked equal to the hourly amount of the national minimum wage.
- (6) In this section, the “provisions of the 2012 Wages Order” means the provisions of the Agricultural Wages (England and Wales) Order 2012 (as made by the Agricultural Wages Board for England and Wales on 20 July 2012).

**13 Report on operation and effect of this Act**

- (1) The Welsh Ministers must, as soon as practicable after the end of the review period, lay before the National Assembly for Wales a report on the operation and effect of this Act during that period.
- (2) The report must, in particular, contain information about the effect that the operation of this Act has had upon—
  - (a) agricultural workers,
  - (b) employers of agricultural workers, and
  - (c) the agricultural sector generally.
- (3) Before preparing the report, the Welsh Ministers must consult such persons as they consider appropriate.
- (4) The Welsh Ministers must, as soon as practicable after the report has been laid before the National Assembly for Wales, publish the report in such manner as they consider appropriate.
- (5) In this section “the review period” means the period of 3 years beginning with the day on which this Act comes into force.

**14 Cyfnod para'r Ddeddf hon**

- (1) Mae'r Ddeddf hon (ac eithrio is-adran (3) ac, at ddibenion yr is-adran honno, adrannau 17(1), 17(2) a 18) yn peidio â chael effaith ar ddiwedd y cyfnod dod i ben, oni bai bod gorchymyn yn cael ei wneud o dan is-adran (2).
- (2) Caiff Gweinidogion Cymru, drwy orchymyn, ar ôl diwedd y cyfnod adolygu ond cyn diwedd y cyfnod dod i ben, ddarparu bod y Ddeddf hon i barhau mewn effaith er gwaethaf is-adran (1).
- (3) Caiff Gweinidogion Cymru, drwy orchymyn, wneud unrhyw ddarpariaeth (gan gynnwys darpariaeth sy'n addasu unrhyw ddeddfiad) sy'n angenrheidiol neu'n hwylus o ganlyniad i'r ffaith bod y Ddeddf hon yn peidio â chael effaith.
- (4) Yn yr adran hon—
  - mae i "y cyfnod adolygu" (*"the review period"*) yr un ystyr ag yn adran 13;
  - ystyr "y cyfnod dod i ben" (*"the expiration period"*) yw'r cyfnod o 4 blynedd sy'n dechrau ar y diwrnod y daw'r Ddeddf hon i rym.

*Cyffredinol***15 Troseddau gan gyrrff corfforaethol**

- (1) Mae'r adran hon yn gymwys pan gyflawnir trosedd o dan y Ddeddf hon gan gorff corfforaethol.
- (2) Os profir bod y drosedd wedi ei chyflawni â chydysyniad neu gydgyllwyn y canlynol, neu ei bod i'w phriodoli i esgeulustod ar ran y canlynol—
  - (a) unrhyw gyfarwyddwr, rheolwr neu ysgrifennydd y corff corfforaethol, neu
  - (b) unrhyw berson a oedd yn honni ei fod yn cyflawni rôl o'r fath,
 mae'r cyfarwyddwr, y rheolwr, yr ysgrifennydd neu'r person hwnnw a oedd yn honni cyflawni rôl o'r fath (yn ogystal â'r corff corfforaethol) yn euog o'r drosedd ac yn atebol i gael achos yn ei erbyn a chael ei gosbi'n unol â hynny.
- (3) Mae'r cyfeiriad at gyfarwyddwr, rheolwr neu ysgrifennydd y corff corfforaethol yn cynnwys cyfeiriad at—
  - (a) unrhyw swyddog tebyg yn y corff;
  - (b) pan fo'r corff yn gorff corfforaethol y mae ei faterion yn cael eu rheoli gan ei aelodau, unrhyw swyddog neu aelod o'r corff hwnnw.

**16 Darpariaeth ategol**

- (1) Caiff Gweinidogion Cymru, drwy orchymyn, wneud unrhyw ddarpariaeth gysylltiedig, ganlyniadol, ategol, drosiannol, ddarfodol neu ddarpariaeth arbed y maent yn eu hystyried yn briodol at ddibenion rhoi effaith lawn i unrhyw ddarpariaeth sydd wedi ei gwneud gan, neu o dan, y Ddeddf hon, neu mewn cysylltiad â hynny.
- (2) Caiff gorchymyn o dan yr adran hon addasu'r deddfiad hwn neu unrhyw ddeddfiad arall.

**14 Duration of this Act**

- (1) This Act (other than subsection (3) and, for the purposes of that subsection, sections 17(1), 17(2) and 18) ceases to have effect at the end of the expiration period, unless an order is made under subsection (2).
- (2) The Welsh Ministers may, by order, after the end of the review period but before the end of the expiration period, provide that this Act is to continue in effect despite subsection (1).
- (3) The Welsh Ministers may, by order, make such provision (including provision modifying any enactment) as may be necessary or expedient in consequence of this Act ceasing to have effect.
- (4) In this section –
  - “the expiration period” (“*y cyfnod dod i ben*”) means the period of 4 years beginning with the day on which this Act comes into force;
  - “the review period” (“*y cyfnod adolygu*”) has the same meaning as in section 13.

*General*

**15 Offences by bodies corporate**

- (1) This section applies where an offence under this Act is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) any director, manager or secretary of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,that director, manager, secretary or person purporting to act as such (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) The reference to the director, manager or secretary of the body corporate includes a reference –
  - (a) to any similar officer of the body;
  - (b) where the body is a body corporate whose affairs are managed by its members, to any officer or member of the body.

**16 Ancillary provision**

- (1) The Welsh Ministers may, by order, make such incidental, consequential, supplemental, transitional, transitory or saving provision as they consider appropriate for the purposes of, or in connection with, giving full effect to any provision made by or under this Act.
- (2) An order under this section may modify this or any other enactment.

**17 Gorchymynion a rheoliadau**

- (1) Mae unrhyw bŵer sydd gan Weinidogion Cymru i wneud gorchymyn neu reoliadau o dan y Ddeddf hon yn arferadwy drwy offeryn statudol ac yn cynnwys pŵer i—
- gwneud unrhyw ddarpariaeth gysylltiedig, ganlyniadol, ategol, drosiannol, ddarfodol neu ddarpariaeth arbed y maent yn eu hystyried yn angenrheidiol neu'n hwylus at ddibenion y Ddeddf hon, neu mewn cysylltiad â hi, a
  - gwneud darpariaeth wahanol at ddibenion gwahanol.
- (2) Nid yw offeryn statudol sy'n cynnwys (ar ei ben ei hun neu ar y cyd â darpariaethau eraill)—
- gorchymyn o dan adran 2,
  - rheoliadau o dan adran 7,
  - gorchymyn o dan adran 14, neu
  - gorchymyn o dan adran 16 sy'n cynnwys darpariaeth sy'n ychwanegu at destun Deddf Seneddol neu Fesur neu Ddeddf Cynulliad Cenedlaethol Cymru, yn diwygio'r testun neu yn ei hepgor,
- i gael ei wneud nes bod drafft o'r offeryn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru, ac wedi ei gymeradwyo drwy benderfyniad ganddo.
- (3) Mae unrhyw offeryn statudol arall sy'n cynnwys gorchymyn neu reoliadau o dan y Ddeddf hon i fod yn ddarostyngedig i'w ddiddymu yn unol â phenderfyniad gan Gynulliad Cenedlaethol Cymru.

**18 Dehongli**

Yn y Ddeddf hon, onid yw'r cyd-destun yn mynnu fel arall—

mae "addasu" ("*modify*"), mewn perthynas â deddfiad, yn cynnwys diwygio neu ddiddymu;

mae "amaethyddiaeth" ("*agriculture*") yn cynnwys—

- ffermio gwartheg godro;
- cynhyrchu unrhyw gynnyrch defnyddiadwy at ddibenion masnach neu fusnes neu unrhyw fenter arall (p'un a wneir hynny i wneud elw ai peidio);
- defnyddio tir fel tir pori, gweirglodd neu ddoldir;
- defnyddio tir fel perllan, tir helyg gwiaail neu goetir;
- defnyddio tir fel gerddi marchnad neu blanhigfa;

ystyr "cyflogaeth" ("*employment*") yw bod yn gyflogedig o dan gontract gwasanaeth neu brentisiaeth a dylid dehongli "a gyflogir" ("*employed*") a "cyflogwr" ("*employer*") yn unol â hynny;

ystyr "cynnyrch defnyddiadwy" ("*consumable produce*") yw cynnyrch a dyfir i'w fwyta ac i'w yfed neu i'w ddefnyddio fel arall ar ôl iddo adael y tir lle cafodd ei dyfu;

ystyr "Deddf 1998" ("*1998 Act*") yw Deddf Isafswm Cyflog Cenedlaethol 1998 (p. 39);

## 17 Orders and regulations

- (1) Any power of the Welsh Ministers to make an order or regulations under this Act is exercisable by statutory instrument and includes power to –
- (a) make such incidental, consequential, supplemental, transitional, transitory or saving provision as the Welsh Ministers consider necessary or expedient for the purposes of, or in connection with, this Act, and
  - (b) make different provision for different purposes.
- (2) A statutory instrument which contains (whether alone or with other provisions) –
- (a) an order under section 2,
  - (b) regulations under section 7,
  - (c) an order under section 14, or
  - (d) an order under section 16 which includes provision which adds to, amends or omits the text of an Act of Parliament or a Measure or Act of the National Assembly for Wales,

is not to be made until a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

- (3) Any other statutory instrument containing an order or regulations under this Act is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.

## 18 Interpretation

In this Act, unless the context requires otherwise –

“1998 Act” (*“Deddf 1998”*) means the National Minimum Wage Act 1998 (c. 39);

“agricultural wages order” (*“gorchymyn cyflogau amaethyddol”*) is to be construed in accordance with section 3 (but see also section 12(3));

“agricultural worker” (*“gweithiwr amaethyddol”*) means a person employed in agriculture in Wales, whether or not the whole of the work undertaken by virtue of that employment is undertaken in Wales;

“agriculture” (*“amaethyddiaeth”*) includes –

- (a) dairy farming;
- (b) the production of any consumable produce for the purposes of a trade or business or any other undertaking (whether carried on for profit or not);
- (c) the use of land as grazing, meadow or pasture land;
- (d) the use of land for orchards, osier land or woodland;
- (e) the use of land for market gardens or nursery grounds;

“consumable produce” (*“cynnyrch defnyddiadwy”*) means produce grown for consumption or for other use after severance from the land on which it is grown;

mae “gorchymyn cyflogau amaethyddol (*“agricultural wages order”*) i’w ddehongli yn unol ag adran 3 (ond gweler hefyd adran 12(3));

ystyr “gweithiwr amaethyddol” (*“agricultural worker”*) yw person a gyflogir ym maes amaethyddiaeth yng Nghymru, p’un a yw’r holl waith yr ymgwymerir ag ef yn rhinwedd y gyflogaeth honno yn cael ei gwneud yng Nghymru ai peidio;

mae i’r “isafswm cyflog cenedlaethol” (*“the national minimum wage”*) yr ystyr a roddir iddo gan adran 10.

## **19 Cychwyn**

Daw darpariaethau’r Ddeddf hon i rym ar y diwrnod y caiff y Ddeddf hon Gydsyniad Brenhinol.

## **20 Enw byr**

Enw byr y Ddeddf hon yw Deddf Sector Amaethyddol (Cymru) 2014.



“employment” (*“cyflogaeth”*) means employed under a contract of service or apprenticeship and “employed” (*“a gyflogir”*) and “employer” (*“cyflogwr”*) are to be construed accordingly;

“modify” (*“addasu”*), in relation to an enactment, includes amend or repeal;

“the national minimum wage” (*“isafswm cyflog cenedlaethol”*) has the meaning given by section 10.

**19 Commencement**

The provisions of this Act come into force on the day on which this Act receives Royal Assent.

**20 Short title**

The short title of this Act is the Agricultural Sector (Wales) Act 2014.





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