
WELSH STATUTORY INSTRUMENTS

2016 No. 107

The Agricultural Wages (Wales) Order 2016

PART 2

Agricultural workers

Terms and conditions of employment

3. An agricultural worker's employment is subject to the terms and conditions set out in this Part and Parts 3, 4 and 5 of this Order.

Grades and categories of agricultural worker

4. An agricultural worker must be employed as a worker at one of the Grades specified in articles 5 to 9 or 10(1) or as an apprentice in accordance with the provisions in article 11.

Grade 2

- 5.** An agricultural worker who—
- (a) provides documentary evidence to an employer that they hold—
 - (i) one of the awards or certificates of competence listed in the tables in Schedule 1;
 - (ii) one National Vocational Qualification relevant to their work; or
 - (iii) an equivalent qualification; or
 - (b) is required to—
 - (i) work without supervision;
 - (ii) work with animals;
 - (iii) work with powered machinery; or
 - (iv) drive an agricultural tractor

must be employed as a worker at Grade 2.

Grade 3

6.—(1) An agricultural worker who has been employed in agriculture for an aggregate period of at least 2 years in the previous 5 years and who—

- (a) provides documentary evidence to an employer that they hold—
 - (i) one of the awards or certificates of competence listed in the tables in Schedule 2;
 - (ii) one National Vocational Qualification relevant to their work; or
 - (iii) or an equivalent qualification; or
- (b) is designated as a team leader,

must be employed as a worker at Grade 3.

(2) For the purposes of this article, a “team leader” is responsible for leading a team of agricultural workers and for monitoring the team’s compliance with instructions given by or on behalf of their employer but is not responsible for disciplinary matters.

Grade 4

7. An agricultural worker who—
- (a) provides documentary evidence to an employer that they hold a total of 8 qualifications which are either—
 - (i) awards or certificates of competence listed in the tables in Schedule 1 ;
 - (ii) National Vocational Qualifications relevant to their work; or
 - (iii) equivalent qualifications; or
 - (b) provides documentary evidence to an employer that they hold 1 of the awards or certificates of competence listed in the tables in Schedule 3 or an equivalent qualification; and
 - (c) who has either—
 - (i) been employed in agriculture for an aggregate period of at least 2 years in the last 5 years; or
 - (ii) been continuously employed for a period of at least 12 months or more by the same employer since obtaining the qualifications referred to in paragraphs (a) and (b),

must be employed as a worker at Grade 4.

Grade 5

8. An agricultural worker who is required to have day to day responsibility—
- (a) for supervising the work carried out on the employer’s holding;
 - (b) for implementing management decisions; or
 - (c) for managing staff,

must be employed as a worker at Grade 5.

Grade 6

9. An agricultural worker who is required to have management responsibility—
- (a) for the entire of the employer’s holding;
 - (b) for part of the employer’s holding which is run as a separate operation or business; or
 - (c) for hiring and managing staff,

must be employed as a worker at Grade 6.

Continued Professional Development

10.—(1) An agricultural worker who cannot be employed at one of the Grades 2 to 6 in accordance with the provision in articles 5 to 9 of this Order and who is not an apprentice in accordance with article 11 must be employed as a worker at Grade 1.

(2) An apprentice in the third year and any subsequent year of their apprenticeship is to be subject to the minimum rates of pay and other terms and conditions in this Order that apply to agricultural workers employed at Grade 2.

- (3) An agricultural worker must—

- (a) maintain documentary evidence of qualifications and experience gained by them that is relevant to their employment; and
- (b) inform their employer if they have gained qualifications and experience that enables them to be employed at a different Grade.

Apprentices

11.—(1) An agricultural worker is an apprentice employed under an apprenticeship if—

- (a) they are employed under either a contract of apprenticeship, an apprenticeship agreement within the meaning of section 32 of the Apprenticeships, Skills, Children and Learning Act 2009⁽¹⁾ or are treated as employed under a contract of apprenticeship; and
- (b) they are within the first 12 months after the commencement of that employment under 19 years of age.

(2) An agricultural worker must be treated as employed under a contract of apprenticeship if they are engaged in Wales under Government arrangements known as Foundation Apprenticeships, Apprenticeships or Higher Apprenticeships.

(3) In this article “Government arrangements” means arrangements made under section 2 of the Employment and Training Act 1973⁽²⁾ or under section 17B of the Jobseekers Act 1995⁽³⁾.

Flexible workers

12.—(1) An agricultural worker is a full time flexible worker if they are employed as a worker at Grades 1 to 6 in accordance with articles 5 to 9 or 10(1) of this Order and they have entered into a written agreement which has a minimum duration of at least 1 year and which—

- (a) requires the agricultural worker to work basic hours either weekly or during a 2 or a 3 week period, such hours to be worked over 4, 5 or 6 days per week;
- (b) does not require the agricultural worker to work more than 10 basic hours on any 1 day; and
- (c) ensures that where an agricultural worker is required to work on a Sunday, they will not be required to work on one working day during the following week.

(2) An agricultural worker is a part time flexible worker if they are employed as a worker at Grades 1 to 6 in accordance with articles 5 to 9 or 10(1) of this order and they have entered into a written agreement which has a minimum duration of at least 1 year and which—

- (a) requires the agricultural worker to work for fewer than the basic hours per week, such hours to be worked over 6 days in any week; and
- (b) either requires the worker to work on Sundays or to work between 8 and 10 basic hours on at least 1 day in any week.

(3) The agricultural worker is to be permitted to have trade union representation at any discussions during the preparation of the flexible working agreement.

(1) 2009 (c.22).

(2) 1973 (c.50). Relevant functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c.32).

(3) 1995 (c.18). Section 17B is repealed by section 147 of and Part 4 of Schedule 14 to the Welfare Reform Act 2012 (2012 c.5). The repeal has effect for certain purposes pursuant to S.I. 2013/983 and S.I. 2013/1511.