
WELSH STATUTORY INSTRUMENTS

2023 No. 260

The Agricultural Wages (Wales) Order 2023

PART 5

Entitlement to time off

Rest breaks

28.—(1) An agricultural worker who is aged 18 or over and who has a daily working time of more than 5 and a half hours is entitled to a rest break.

(2) An agricultural worker who is aged under 18 and who has a daily working time of more than 4 and a half hours is entitled to a rest break.

(3) The rest break provided for in paragraphs (1) and (2) is an uninterrupted period of not less than 30 minutes and the agricultural worker is entitled to spend it away from their workstation (if they have one) or other place of work.

(4) Subject to paragraph (5), the provisions relating to rest breaks as specified in paragraphs (1), (2) and (3) do not apply to an agricultural worker where—

- (a) due to the specific characteristics of the activity in which the agricultural worker is engaged, the duration of their working time is not measured or predetermined,
- (b) the agricultural worker's activities involve the need for continuity of service or production,
- (c) there is a foreseeable surge of activity,
- (d) the agricultural worker's activities are affected by—
 - (i) an occurrence due to unusual and unforeseeable circumstances, beyond the control of their employer,
 - (ii) exceptional events, the consequences of which could not have been avoided despite the exercise of all due care by the employer, or
 - (iii) an accident or the imminent risk of an accident, or
- (e) the employer and agricultural worker agree to modify or exclude the application of paragraphs (1), (2) and (3) in the manner and to the extent permitted by or under the Working Time Regulations 1998⁽¹⁾.

(5) Where paragraph (4) applies and an agricultural worker is accordingly required by their employer to work during a period which would otherwise be a rest break—

- (a) the employer must, unless sub-paragraph (b) applies, allow the agricultural worker to take an equivalent period of compensatory rest, and
- (b) in exceptional cases in which it is not possible, for objective reasons, to grant such a period of rest, the agricultural worker's employer must afford them such protection as may be appropriate in order to safeguard the agricultural worker's health and safety.

(1) [S.I. 1998/1833](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) If, on any day, an agricultural worker who is under 18 years of age is employed by more than one employer, their daily working time shall be determined for the purposes of paragraph (2) by aggregating the number of hours worked by them for each employer.