
WELSH STATUTORY INSTRUMENTS

2023 No. 260

The Agricultural Wages (Wales) Order 2023

PART 5

Entitlement to time off

Amount of annual leave for agricultural workers with variable working days employed throughout the annual leave year

33.—(1) Where an agricultural worker works their basic hours on a varying number of days each week, the number of days worked each week for the purposes of the Table in Schedule 2, is to be taken as an average of the number of qualifying days worked each week during the period of 52 weeks immediately preceding the commencement of the agricultural worker's annual leave and that average number of qualifying days must, where appropriate, be rounded to the nearest whole day.

(2) At the end of the annual leave year the employer must calculate the agricultural worker's actual entitlement for the purposes of the Table in Schedule 2, based upon the number of qualifying days worked each week, taken as an average of the number of qualifying days worked each week during the annual leave year (i.e. over a period of 52 weeks) and the average number of qualifying days must be, where appropriate, rounded to the nearest whole day.

(3) If at the end of the annual leave year, the agricultural worker has accrued but untaken holiday entitlement, the agricultural worker is entitled to carry forward any accrued but untaken holiday to the following annual leave year in accordance with article 35(3) of this Order or the agricultural worker and the employer may agree to a payment in lieu of any accrued but untaken holiday in accordance with article 38 of this Order.

(4) If at the end of the annual leave year, the agricultural worker has taken more holiday days than they were entitled to under this Order, based on the average number of qualifying days worked per week (calculated in accordance with paragraph (2)), the employer is entitled to deduct any pay for holiday days taken in excess of the agricultural worker's entitlement or, in the alternative, deduct the holiday days taken in excess of the agricultural worker's entitlement from their entitlement for the following annual leave year (provided any such deduction does not result in the agricultural worker receiving less than their statutory annual leave entitlement under regulations 13 and 13A of the Working Time Regulations 1998).