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WELSH STATUTORY INSTRUMENTS

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**2023 No. 260**

**The Agricultural Wages (Wales) Order 2023**

**PART 5**

**Entitlement to time off**

**Holiday pay**

**36.**—(1) An agricultural worker is entitled to be remunerated in respect of each day of annual leave taken by them.

(2) The amount of holiday pay to which an agricultural worker is entitled under paragraph (1) is to be determined by dividing the agricultural worker's weekly wage as determined in accordance with paragraph (3), or as the case may be paragraph (4), by the number of qualifying days worked each week by that agricultural worker.

(3) Where the agricultural worker's normal working hours under either their contract or apprenticeship do not vary (subject to paragraph (4)), the amount of the agricultural worker's weekly pay for the purposes of paragraph (2) is the agricultural worker's normal weekly pay payable by the employer.

(4) Where the agricultural worker's normal working hours vary from week to week, or where an agricultural worker with normal working hours (as in paragraph (3)) works overtime in addition to those hours, the amount of the agricultural worker's normal weekly pay for the purposes of paragraph (2) is calculated by adding together the amount of the agricultural worker's normal weekly pay in each of the 52 weeks immediately preceding the commencement of the worker's annual leave and dividing the total by 52. Any weeks in which no remuneration was payable to the agricultural worker should be excluded from the 52 week reference period and earlier weeks taken into account, up to a maximum of 104 weeks.

(5) For the purposes of this article "normal weekly pay" means—

- (a) the agricultural worker's basic pay under their contract or apprenticeship, and
- (b) any overtime pay and any allowance paid to the agricultural worker on a consistent basis.

(6) Where an agricultural worker has been employed by their employer for less than 52 weeks, account must be taken only of weeks in which pay was due to the agricultural worker.

(7) For the purposes of paragraph (2), the number of qualifying days worked is determined in accordance with the provisions in articles 32 and 33 of this Order.

(8) Any pay due to an agricultural worker under this article must be made not later than the agricultural worker's last working day before the commencement of the period of annual leave to which the payment relates.