
WELSH STATUTORY INSTRUMENTS

2016 No. 107

The Agricultural Wages (Wales) Order 2016

PART 5

Entitlement to time off

Holiday pay

34.—(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 gross pay each week (excluding any pay attributable to overtime) does not vary, the amount of the agricultural worker's weekly wage for the purposes of paragraph (2) is the amount which is payable by the employer under either the agricultural worker's contract of service or their apprenticeship.

(4) Where the agricultural worker's gross pay (excluding any pay attributable to overtime) varies from week to week, the amount of the agricultural worker's weekly wage for the purposes of paragraph (2) is, subject to paragraph (5), the agricultural worker's average weekly wage in a period of 12 weeks calculated by—

- (a) adding together the amount of the agricultural worker's gross pay (excluding any pay attributable to overtime) in each of the 12 weeks immediately preceding the commencement of the worker's annual leave; and
- (b) dividing by 12, the total gross pay ascertained under sub-paragraph (a).

(5) Where an agricultural worker has been employed by their employer for less than 12 weeks, account must be taken only of weeks in which pay was due to the agricultural worker.

(6) For the purposes of the calculation in paragraph (2), the number of days worked is determined in accordance with the provisions in article 31 of this Order.

(7) Any pay due to an agricultural worker under this article must be made no later than the agricultural worker's last working day before the commencement of the period of annual leave to which the payment relates.