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WELSH STATUTORY INSTRUMENTS

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**2020 No. 347**

**The Agricultural Wages (Wales) Order 2020**

**PART 1**

**Preliminary**

**Title and commencement**

1. The title of this Order is the Agricultural Wages (Wales) Order 2020 and it comes into force on 1 April 2020.

**Interpretation**

2.—(1) In this Order—

“agriculture” (“*amaethyddiaeth*”) includes—

- (a) dairy farming;
- (b) the production of any consumable produce for the purposes of a trade or business or any other undertaking (whether carried on for profit or not);
- (c) the use of land as grazing, meadow or pasture land;
- (d) the use of land for orchards, osier land or woodland;
- (e) the use of land for market gardens or nursery grounds;

“agricultural worker” (“*gweithiwr amaethyddol*”) means a person employed in agriculture in Wales, whether or not the whole of the work undertaken by virtue of that employment is undertaken in Wales;

“basic hours” (“*oriau sylfaenol*”) means 39 hours of work per week, excluding overtime, worked in accordance with either an agricultural worker’s contract of service or an apprenticeship;

“birth and adoption grant” (“*grant geni a mabwysiadu*”) means a payment that an agricultural worker is entitled to receive from their employer on the birth of their child or upon the adoption of a child and is payable—

- (a) where the agricultural worker has given their employer a copy of the child’s Birth Certificate or Adoption Order (naming the worker as the child’s parent or adoptive parent) within 3 months of the child’s birth or adoption; and
- (b) in circumstances where both parents or adoptive parents are agricultural workers with the same employer, to each agricultural worker;

“compulsory school age” (“*oedran ysgol gorfodol*”) has the meaning given in section 8 of the Education Act 1996<sup>(1)</sup>;

“consumable produce” (“*cynnyrch defnyddiadwy*”) means produce grown for consumption or for other use after severance from the land on which it is grown;

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(1) 1996 c. 56. Section 8 was amended by the Education Act 1997 (c. 44), section 52.

“employment” (“*cyflogaeth*”) means employed under a contract of service or apprenticeship and “employed” (“*a gyflogir*”) and “employer” (“*cyflogwr*”) are to be construed accordingly; “guaranteed overtime” (“*goramser gwarantedig*”) means overtime which an agricultural worker is obliged to work either under their contract of service or their apprenticeship and in respect of which the agricultural worker’s employer guarantees payment, whether or not there is work for the agricultural worker to do;

“hours” (“*oriau*”) includes a fraction of an hour;

“house” (“*ty*”) means a whole dwelling house or self-contained accommodation that by virtue of the agricultural worker’s contract of service the agricultural worker is required to live in for the proper or better performance of their duties and includes any garden within the curtilage of such a dwelling house or self-contained accommodation;

“night work” (“*gwaith nos*”) means work (apart from overtime hours) undertaken by an agricultural worker between 7 p.m. on one evening and 6 a.m. the following morning, but excluding the first two hours of work that an agricultural worker does in that period;

“on-call” (“*ar alwad*”) means a formal arrangement between the agricultural worker and their employer where an agricultural worker who is not at work agrees with their employer to be contactable by an agreed method and able to reach the place where they may be required to work within an agreed time;

“other accommodation” (“*llety arall*”) means any living accommodation other than a house which—

- (a) is fit for human habitation;
- (b) is safe and secure;
- (c) provides a bed for the sole use of each individual agricultural worker; and
- (d) provides clean drinking water, suitable and sufficient sanitary conveniences and washing facilities for agricultural workers in accordance with regulations 20 to 22 of the Workplace (Health, Safety and Welfare) Regulations 1992<sup>(2)</sup> as if the accommodation was a workplace to which regulations 20 to 22 of those Regulations applied;

“output work” (“*gwaith allbwn*”) means work which, for the purposes of remuneration, is measured by the number of pieces made or processed or the number of tasks performed by an agricultural worker;

“overtime” (“*goramser*”) means—

- (a) in relation to an agricultural worker who began their employment prior to 1 October 2006, time that is not guaranteed overtime worked by the agricultural worker—
  - (i) in addition to an 8 hour working day;
  - (ii) in addition to the agreed hours of work in their contract of service;
  - (iii) on a public holiday,
  - (iv) on a Sunday; or
  - (v) in any period commencing on a Sunday and continuing to the following Monday up until the time that worker would normally start their working day;
- (b) in relation to all other agricultural workers, time that is not guaranteed overtime worked by the agricultural worker—
  - (i) in addition to an 8 hour working day;
  - (ii) in addition to the agreed hours of work in their contract of service; or
  - (iii) on a public holiday;

(2) S.I. 1992/3004.

“qualifying days” (“*diwrnodau cymwys*”) means days on which the agricultural worker would normally be required to be available for work including days on which the agricultural worker—

- (a) was taking annual leave;
- (b) was taking bereavement leave;
- (c) was taking statutory maternity, paternity, shared parental or adoption leave; or
- (d) was on a period of sickness absence;

“sickness absence” (“*absenoldeb salwch*”) means the absence of an agricultural worker from work due to incapacity by reason of—

- (a) any illness suffered by the agricultural worker;
- (b) illness or incapacity caused by the agricultural worker’s pregnancy or suffered as a result of childbirth;
- (c) an injury that occurs to the agricultural worker at the agricultural worker’s place of work;
- (d) an injury that occurs to the agricultural worker when travelling to or from their place of work;
- (e) time spent by the agricultural worker recovering from an operation caused by an illness; or
- (f) time spent by the agricultural worker recovering from an operation in consequence of an injury suffered at their place of work or an injury suffered whilst travelling to or from their place of work,

but does not include any injury suffered by the agricultural worker when not at their place of work nor any injury suffered when the agricultural worker is not travelling to or from their place of work;

“the national minimum wage” (“*isafswm cyflog cenedlaethol*”) has the meaning given by section 10;

“travelling” (“*teithio*”) means a journey by a mode of transport or a journey on foot and includes—

- (a) waiting at a place of departure to begin a journey by a mode of transport;
- (b) waiting at a place of departure for a journey to re-commence either by the same or another mode of transport, except for any time the agricultural worker spends taking a rest break; and
- (c) waiting at the end of a journey for the purpose of carrying out duties, or to receive training, except for any time the agricultural worker spends taking a rest break;

“working time” (“*amser gweithio*”) means any period during which an agricultural worker is working at their employer’s disposal and carrying out activities or duties in accordance with either their contract of service or their apprenticeship and includes—

- (a) any period during which an agricultural worker is receiving relevant training;
- (b) any time spent travelling by an agricultural worker for the purposes of their employment but does not include time spent commuting between their home and their place of work;
- (c) any period during which an agricultural worker is prevented from carrying out activities or duties in accordance with their contract of service or their apprenticeship due to bad weather; and
- (d) any additional period which the employer and the agricultural worker agree is to be treated as working time,

and references to “work” (“*gwaith*”) are to be construed accordingly.

(2) In this article the reference to agricultural workers who began their employment prior to the 1 October 2006 includes agricultural workers—

- (a) whose contract terms have since been subject to any variation; or
- (b) who have since been employed by a new employer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006<sup>(3)</sup>.

(3) References in this Order to a period of continuous employment are to be construed as a period of continuous employment computed in accordance with sections 210 to 219 of the Employment Rights Act 1996<sup>(4)</sup>.

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<sup>(3)</sup> [S.I. 2006/246](#).

<sup>(4)</sup> [1996 c. 18](#). Section 211 was amended by Schedule 8 to [S.I. 2006/1031](#). Section 212 was amended by Schedules 4 and 9 to the Employment Relations Act [1999 \(c. 26\)](#). Section 215 was amended by Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act [1999 \(c. 2\)](#). Section 219 was amended by Schedule 15 to the Employment Rights (Dispute Resolution) Act [1998 \(c. 8\)](#).