



Llywodraeth Cymru  
Welsh Government

CYHOEDDIAD

# Gorchymyn Cyflogau Amaethyddol (Cymru) 2023: asesiad o'r effaith ar hawliau plant

Asesiad o sut y mae'r newidiadau a gyflwynwyd yng Ngorchymyn Cyflogau Amaethyddol 2023 yn effeithio ar hawliau plant.

Cyhoeddwyd gyntaf: 5 Mai 2023

Diweddarwyd ddiwethaf: 5 Mai 2023

Cafodd y ddogfen hon ei lawrlwytho o LLYW.CYMRU, efallai nad dyma'r fersiwn mwyaf diweddar.

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# Cynnwys

## Children's rights impact assessment

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# Children's rights impact assessment

The Rights of Children and Young Persons (Wales) Measure 2011 places a duty on the Welsh Ministers to pay due regard to the [United Nations Convention on the Rights of the Child \(UNCRC\) and its Optional Protocols](#) when exercising any of their functions.

## 1. Policy objectives

The main objectives of the provision for young workers within the Agricultural Minimum Wage (“AMW”) framework is to ensure they receive adequate pay and have an opportunity to gain valuable work experience.

The proposed grades and AMW rates in the Agricultural Wages (Wales) Order 2023 are as follows (the comparative rates under the 2022(2) Order are included):

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## Proposed grades

Category of Worker	2023 Rates	Comparative 2022(2) Rates
A1 – Agricultural Development Worker (16-17 years)	£5.28	£4.81
A2 – Agricultural Development Worker (18-20 years)	£7.49	£6.83
A3 – Agricultural Development Worker (21-22 years)	£10.23	£9.18
A4 – Agricultural Development Worker (23 years+)	£10.47	£9.50
B1 – Agricultural Worker (16-17 years)	£5.28	£4.81
B2 – Agricultural Worker (18-20 years)	£7.49	£6.83
B3 – Agricultural Worker (21-22 years)	£10.23	£9.18
B4 – Agricultural Worker (23 years+)	£10.74	£9.79
C – Agricultural Advanced Worker	£11.07	£10.08
D – Senior Agricultural Worker	£12.14	£11.06
E – Agricultural Manager	£13.32	£12.13

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Apprentice Year 1	£5.28	£4.81
Apprentice Year 2 (16 - 17 years)	£5.28	£4.81
Apprentice Year 2 (18 – 20 years)	£7.49	£6.83
Apprentice Year 2 (21 - 22 years)	£10.23	£9.18
Apprentice Year 2 (23+ years)	£10.42	£9.50

The Panel also proposed the following allowances increase by the same percentage points as the National Living Wage (9.7%):

## Allowances

Allowance	2023 Rates	Comparative 2022(2) Rates
Dog Allowance – per dog per week	£9.36	£8.53
Night Time Work Allowance – per hour of night work	£1.78	£1.62
Birth Adoption Allowance – for each child	£73.60	£67.09

The AMW framework includes a wide set of agriculture-related benefits and allowances for all workers in the sector. These include overtime rates, on-call allowance, night work supplement, housing offset and dog allowance. The 2023 Order continues to ensure young workers in agriculture receive a fair pay with a comprehensive package of additional employment benefits.

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The Panel have continued to retain the National Minimum Wage (“NMW”) / National Living Wage (“NLW”) age bands for the lowest grade workers. An aim of the AMW regime is to encourage formal training including apprenticeships. The removal of the age bands could discourage employers from taking on young people if they had to pay them at the higher rate. There would also be less of an incentive for workers to complete apprenticeships.

Key stakeholders such as the farming unions have expressed their support for retaining the provision for young workers within the Welsh AMW framework – the consensus being the provision encourages young people to gain valuable work experience and can help the industry gain future new entrants. Furthermore, the Panel were of the view setting hourly pay rates helps protect young workers and ensures their work is recognised and remunerated in accordance with their duties.

Grade A within the AMW framework is regarded as a transitional grade. The statutory provisions provide for Grade A workers to attend training that would allow them to move to a higher grade following 30 weeks of continuous employment, at the expense of their employer. This can represent a progression path for new entrants when they join agriculture.

The policy intention of the Panel is to promote new entrants into the industry and offer favourable conditions to those wishing to join agricultural apprenticeship programmes. The provisions for apprentices and training within the Order support succession, skills development and skills retention within the industry – all of which are crucial for the future success of agriculture in Wales. It is imperative that provisions contained in the Order support career progression and the entry of young entrants to assist in gaining skills and qualifications, which can improve their job prospects in the future.

The AMW in Wales may create a wages differential at some grades between Wales and England, potentially disadvantaging farmers who largely compete with producers based in England due to an increase in costs. However, such

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impacts are likely to be relatively marginal in overall terms and will not affect younger workers in the lower grades as the rates are set at National Minimum Wages levels. The economic impact of the new Order has been considered in the Regulatory Impact Assessment which will be published with the 2023 Order.

## 2. Gathering evidence and engaging with children and young People

There is no data available on how many young people are employed as agricultural workers in Wales, although the number is expected to be low and they would most likely be family members<sup>[1]</sup>. Data on the number of children working in agriculture in Wales is not available. A 2009 survey by the BBC in which 101 of the 175 local authorities in England and Wales participated found that there were around 30,000 young workers aged between 13 and 16 in some form of employment. Only a small proportion of these would be employed in agriculture. There is no evidence that this situation has changed.

Representatives of both YFC Wales and Coleg Cambria are members of the sub-committee for Skills Development and Training to specifically give expert views on the needs of young people in the agricultural sector.

A targeted consultation on the proposed changes was conducted from 22 September to 20 October 2022. The proposals were made available on the Welsh Government Consultations webpage and emailed to an extensive list of stakeholders including organisations that work with and look out of the interests on children. Young people have accessible and equitable opportunities to be involved in the consultation process however no responses were received from these organisations.

Due to the lack of evidence the impact of the Order cannot be quantified with any degree of certainty however the changes made will have a positive impact on children and young people.

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### 3. Analysing the evidence and assessing the impact

All school children who work in the UK are protected by the provisions of the Children and Young Persons Act 1933. This places limits on both the types of work that can be undertaken and the hours worked by a young person of compulsory school age. Young workers over the age of 16 are subject to the National Minimum Wage framework however this does not set statutory minimum rates for young workers under the age of 16.

In maintaining the provisions of the Agricultural Minimum Wage framework and increasing pay rates for agricultural workers, including young worker and apprentices, the Welsh Government's assessment is that the work helps to realise or affect the following rights with regards to the UN Convention on the Rights of the Child ["UNCRC"]:

## Rights

UNCRC Articles or Optional Protocol	Enhances (X)	Challenges (X)	Explanation
<b>Article 1</b> – Everyone under 18 years of age has all the rights in this convention.	X		These articles relate to the general wellbeing and consideration given to children. This is fulfilled under the statutory provisions as these apply to all workers aged 16 and over. The Order sets minimum wages for all workers, ensuring they are not exploited when employed at a young age. It is also important to note these rates are set in the context of other employment law which stipulates restrictions on the hours children are
<b>Article 2</b> – The Convention applies to everyone whatever their race, religion, abilities, whatever they			

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UNCRC Articles or Optional Protocol	Enhances (X)	Challenges (X)	Explanation
think or say and whatever type of family they come from.			allowed to work during term time and during school holidays.
<b>Article 3</b> – All organisations concerned with children should work towards what is best for each child.			The provisions of the Order apply to all workers aged 16 and over including migrant and immigrant workers. A provision introduced in 2022 ensures that relevant equivalent qualifications (awarded outside the UK) which can determine the grade and the wage of the worker are recognised within the AMW framework. This ensures migrant and immigrant workers have the same rights as those born in the UK.
<b>Article 4</b> – Governments should make these rights available to children.			The main objectives of the provision for young workers within the AMW framework is to ensure they receive adequate pay and have an opportunity to gain valuable work experience. These objectives support Articles 3 and 4 in particular.
<b>Article 12</b> – Children have the right to say what they think should happen when adults are making decisions that affect them and to have their opinions taken into account.			Respondents to the consultation in September / October 2022 provided no specific comments on children’s rights. Children’s groups and young farmer

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UNCRC Articles or Optional Protocol	Enhances (X)	Challenges (X)	Explanation
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groups were targeted during the consultation period, but none responded.

Due to the lack of responses to date, the Panel are considering ways to improve engagement work with Children's groups and Young Farmers' groups in the future. A representative of YFC Wales and Coleg Cambria is on the sub-committee for Skills Development and Training and additional representatives from other organisations representing young people will be invited to attend over the coming year. These objectives will support and promote Article 12.

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**Article 6** – All children have the right of life. Governments should ensure that children survive and develop healthily. X

The Order continues to protect farm workers' wages and therefore it will continue the current level of protection for the children of farm workers from living in poverty, as well as support young workers and their career progression.

**Article 27** – States

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Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

The work associated with the implementation of the 2014 Act supports the Welsh Government's aspiration to meet the living wage for all who live and work in Wales. Under the AMW framework the package of benefits and salary for agricultural workers would, in most instances, reach or exceed the National Living Wage which is above the National Minimum Wage levels.

**Article 29** – Education X  
 develops each child's personality and talents to the full. It should encourage children to respect their parents and their own, and other, cultures.

Provisions under the AMW framework, such as the career structure that links pay levels to qualifications and experience and the pay matrix for apprentices, support young people to achieve meaningful careers in agriculture and provides opportunities for children and young people to pursue education and acquire skills needed in their chosen field.

The AMW system supports young people under educational schemes in agriculture in Wales. The provisions for apprentices assist succession, skills development and skills retention within

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UNCRC Articles or Optional Protocol	Enhances (X)	Challenges (X)	Explanation
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the industry. It also provides remuneration for young workers which not only helps acquire important and valuable work experience in the farming environment but has the capability to increase their appreciation for farm work and their rural cultural heritage.

<p><b>Article 32 (1)</b> - State Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.</p>	X		
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Setting hourly pay for young people under the AMW framework ensures their work is recognised and remunerated in accordance with their duties and helps protect vulnerable young workers from exploitation in line with Article 32 of the UNCRC. In addition, setting minimum levels of pay acknowledges the contribution of young workers to the economy and agricultural production whilst also offering rewarding and valuable work experience which can help them to secure future employment opportunities.

<p><b>Article 32 (2)</b> - State Parties shall take legislative,</p>			
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The Welsh Ministers have a duty to enforce the applicable AMW rates and any complaint received in relation to a

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UNCRC Articles or Optional Protocol	Enhances (X)	Challenges (X)	Explanation
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administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, State Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

potential breach to the statutory regime is investigated. If a breach is identified, the Welsh Government has the means to force the employer to pay any confirmed underpayment to the worker in question. The enforcement mechanism applies to categories of worker covered by the 2023 Order including young workers and apprentices.

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UNCRC Articles or Optional Protocol	Enhances (X)	Challenges (X)	Explanation
<b>Article 36</b> – State Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare	X		<p>The welfare of young workers is protected under the AMW framework which offers appropriate hourly pay for young workers and apprentices and supports skills development and career progression for all employed in agriculture in Wales. The provisions of the Order apply in the context of wider UK law which sets limits on the number of hours that can be worked and the type of work that can be undertaken to ensure their health, welfare and education is not harmed.</p> <p>Having a separate remuneration for young people achieves a number of objectives – it makes sure they are paid acceptable levels of pay which acknowledges and respects their contribution in a farming environment and it helps them develop various agriculture-related and transferable skills which can lead to better employment and education opportunities in the future.</p>

The Agricultural Wages Order 2023 will not impact young people from the EU, EEA or Switzerland whose rights are protected by the Citizens Rights Agreements as the minimum wage rates and other terms and conditions apply to

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all agricultural, horticultural and forestry workers who are employed in Wales.

## 4. Ministerial advice and decision

The Minister for Rural Affairs, North Wales and Trefnydd has been informed of the outcome of the consultation exercises on the new rates. Respondents to the consultation provided no specific comments on children's rights. Children's groups and young farmer groups were targeted during the consultation period, but none responded.

The new Agricultural Wages Order is expected to come into force on 1 April 2023.

## 5. Monitoring and Review

The Welsh Government will monitor the impact of the 2023 Order, and any subsequent Orders proposed by the Agricultural Advisory Panel, on the agricultural sector including young workers. The Welsh Government will continue to have a dialogue with key stakeholders and collate feedback on the impact of the new legislation. A helpline number will continue to be available for queries related to the 2023 Order. All of this information will help to both assess the effectiveness of the Order and inform any future Orders.

The Agricultural Sector (Wales) Act 2014 has been reviewed as part of the statutory requirement stipulated by the 2014 Act. Section 13 specifies the Welsh Ministers must provide a report on the operation and effect of the Act within three years of the Act receiving Royal Assent (30 July 2017). The report contains information on the impact of the Act on agricultural workers, employers and the sector in general. The report was laid in the Senedd:

### [Review of the Agricultural Sector Act 2014](#)

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## Adroddiad o'r Deddf Sector Amaethyddol 2014

[1] The Implications for the National Minimum Wage of the abolition of the Agricultural Wages Board for England and Wales; Incomes Data Services London 2011.

**Efallai na fydd y ddogfen hon yn hollol hygyrch.**

Drllenwch ein [datganiad hygyrchedd](#) i gael rhagor o wybodaeth.

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