

Agenda – Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad: I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 1 – Y Senedd **Gareth Williams**
Dyddiad: Dydd Llun, 23 Ebrill 2018 Clerc y Pwyllgor
Amser: 14.00 0300 200 6362
SeneddMCD@cynulliad.cymru

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datganiadau o fuddiant

2 Bil yr UE (Ymadael): Sesiwn dystiolaeth – Ysgrifennydd y Cabinet dros Gyllid

2.00 (Tudalennau 1 – 11)

Mark Drakeford AC, Ysgrifennydd y Cabinet dros Gyllid;

Owen Davies, Llywodraeth Cymru;

Simon Brindle, Llywodraeth Cymru

CLA(5)–12–18 – Papur briffio

3 Offerynnau sy'n cynnwys materion i gyflwyno adroddiad arnynt i'r Cynulliad o dan Reol Sefydlog 21.2 neu 21.3

Offerynnau'r Penderfyniad Negyddol

3.1 SL(5)207 – Rheoliadau Pysgod Môr (Safonau Marchnata) (Cymru a Lloegr a Gogledd Iwerddon) 2018

(Tudalennau 12 – 29)

CLA(5)–12–18 – Papur 1 – Rheoliadau

CLA(5)–12–18 – Papur 2 – Memorandwm Esboniadol

CLA(5)–12–18 – Papur 3 – Adroddiad



3.2 SL(5)208 – Gorchymyn Cyflogau Amaethyddol (Cymru) 2018

(Tudalennau 30 – 118)

CLA(5)–12–18 – Papur 4 – Gorchymyn

CLA(5)–12–18 – Papur 5 – Memorandwm Esboniadol

CLA(5)–12–18 – Papur 6 – Llythyr gan Arweinydd y Tŷ a'r Prif Ahwip, Torri'r rheol 12 diwrnod

CLA(5)–12–18 – Papur 7 – Adroddiad

4 Papurau i'w nodi

4.1 Craffu ar reoliadau a wnaed o dan Fil yr Undeb Ewropeaidd (Ymadael)

(Tudalennau 119 – 132)

CLA(5)–12–18 – Papur 8 Llythyr at Brif Weinidog Cymru: Craffu ar reoliadau a wnaed o dan Fil yr Undeb Ewropeaidd (Ymadael), 17 Ebrill 2018

CLA(5)–12–18 – Papur 9 – Llythyr at y Llywydd: Craffu ar reoliadau a wnaed o dan Fil yr Undeb Ewropeaidd (Ymadael), 17 Ebrill 2018

4.2 Llythyr gan Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth: Y Bil Masnach

(Tudalen 133)

CLA(5)–12–18 – Papur 10 – Llythyr gan Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth: Y Bil Masnach, 16 Ebrill 2018

5 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y busnes a ganlyn:

6 Trafod y dystiolaeth: Bil yr Undeb Ewropeaidd (Ymadael)

7 Llywodraethiant yn y DU ar ôl gadael yr Undeb Ewropeaidd – Adroddiad drafft y Panel Dinasyddion

(Tudalennau 134 – 145)

CLA(5)-12-18 – Papur 11 – Adroddiad drafft

8 Adnoddau ar gyfer Brexit

(Tudalennau 146 – 155)

CLA(5)-12-18 – Papur 12 – Llythyr gan y Llywydd, 16 Mawrth 2018

CLA(5)-12-18 – Papur 13 – Ymateb drafft

9 Llythyr at Lywodraeth y DU – Y Gwasanaeth Sifil

(Tudalennau 156 – 157)

CLA(5)-12-18 – Papur 14 – Llythyr drafft

10 Papur i'w nodi: gohebiaeth â'r Pwyllgor Busnes

(Tudalennau 158 – 160)

CLA (5)-12-18 – Papur 15 – Llythyr at y Pwyllgor Busnes: Cyfarfodydd y tu allan i'r amserlen a ddyrannwyd, 12 Ebrill 2018

CLA (5)-12-18 – Papur 16 – Llythyr gan y Pwyllgor Busnes: Cais i ymestyn eich amser cyfarfod dydd Llun, 19 Ebrill 2018

Dyddiad y cyfarfod nesaf

30 Ebrill 2018

Mae cyfyngiadau ar y ddogfen hon

Eitem 3.1

STATUTORY INSTRUMENTS

2018 No. 437

SEA FISHERIES, ENGLAND AND WALES

SEA FISHERIES, NORTHERN IRELAND

The Sea Fish (Marketing Standards) (England and Wales and Northern Ireland) Regulations 2018

<i>Made</i>	- - - -	<i>26th March 2018</i>
<i>Laid before Parliament</i>		<i>28th March 2018</i>
<i>Laid before the National Assembly for Wales</i>		<i>28th March 2018</i>
<i>Coming into force</i>	- -	<i>30th April 2018</i>

The Secretary of State and, in relation to Wales, the Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the common agricultural policy of the European Union(b).

The Secretary of State, in relation to England and Northern Ireland, and the Welsh Ministers, in relation to Wales, make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Sea Fish (Marketing Standards) (England and Wales and Northern Ireland) Regulations 2018.
- (2) These Regulations come into force on 30th April 2018.
- (3) These Regulations extend to England and Wales and Northern Ireland.

Interpretation

2. In these Regulations—

- “authorised officer” has the meaning given in regulation 4(1);
- “compliance notice” has the meaning given in regulation 8(1);
- “enforcement authority” means—

(a) 1972 c. 68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1) and the European Union (Amendment) Act 2008 (c. 7), Part 1 of the Schedule.

(b) The Secretary of State is designated under S.I. 1972/1811. The designation of the Secretary of State in relation to the common agricultural policy under that instrument remains exercisable in relation to Northern Ireland despite the designation of Northern Ireland Ministers and Northern Ireland Departments in relation to that matter under S.I. 2000/2812 (see article 3(2) of that instrument). The Welsh Ministers are designated under S.I. 2010/2690. Designation in relation to the common agricultural policy includes the common fisheries policy: Article 38 of the Treaty on the Functioning of the European Union includes the common fisheries policy within the common agricultural policy.

- (a) in England—
 - (i) the Secretary of State;
 - (ii) the Marine Management Organisation^(a);
 - (iii) for each county, district or London borough, the council of that county, district or borough;
 - (iv) for the City of London (including the Temples), the Common Council; and
 - (v) for the Isles of Scilly, the Council of the Isles of Scilly;
- (b) in Wales—
 - (i) the Welsh Ministers; and
 - (ii) for each county or county borough, the council of that county or county borough; and
- (c) in Northern Ireland—
 - (i) the Department of Agriculture, Environment and Rural Affairs; and
 - (ii) for each district, the council of that district;

“premises” means any land, building, container, vehicle or vessel of any description;

“Regulation 2406/96” means Council Regulation (EC) No. 2406/96 laying down common marketing standards for certain fishery products^(b), as last amended by Commission Regulation (EC) No. 790/2005^(c);

“Regulation 1379/2013” means Regulation (EU) No. 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products^(d), as last amended by Regulation (EU) 2015/812 of the European Parliament and of the Council^(e);

“relevant provision” means one of the provisions specified in regulation 3.

Application

3. These Regulations apply for the purposes of enforcing—

- (a) Article 2(1) of Regulation 2406/96 (fishery products may be marketed only if they meet the requirements of the Regulation), read subject to Article 2(2) of that Regulation;
- (b) Article 34(1) of Regulation 1379/2013 (products intended for human consumption may be made available on the market only in accordance with common marketing standards laid down for those products).

Authorised officers

4.—(1) The enforcement authority may in writing appoint an officer (an “authorised officer”) to act for the purposes of these Regulations.

(2) The enforcement authority may provide for an appointment made under paragraph (1) to have effect for limited purposes.

Power to enter premises

5.—(1) Where an authorised officer has reasonable suspicion of a contravention of a relevant provision in, or in connection with, any premises, the officer may, at a reasonable hour, enter those premises for the purpose of enforcing that provision.

(a) The Marine Management Organisation is established under section 1 of the Marine and Coastal Access Act 2009 (c. 23).

(b) OJ No. L 334, 23.12.1996, p. 1.

(c) OJ No. L 132, 26.5.2005, p 15.

(d) OJ No. L 354, 28.12.2013, p. 1.

(e) OJ No. L 133, 29.5.2015, p.1.

(2) But an authorised officer must not enter any premises under paragraph (1) unless notice of the officer's intention to do so has been served on the occupier a reasonable period in advance.

(3) The requirement to serve notice does not apply—

- (a) where the requirement has been waived;
- (b) where reasonable efforts to agree an appointment have failed;
- (c) where an inspector reasonably believes that serving notice would defeat the object of the entry; or
- (d) in an emergency where entry is required urgently.

(4) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling house unless a right of entry is conferred by a warrant granted under regulation 6.

(5) An authorised officer must, if requested to do so, produce a duly authenticated document showing the authority of that officer.

(6) An authorised officer who enters any premises which are unoccupied, or from which the occupier is temporarily absent, or who enters any premises by force, must leave them as effectively secured against unauthorised entry as they were before entry.

(7) An authorised officer may—

- (a) be accompanied by such other persons as the authorised officer considers necessary; and
- (b) bring onto the premises such equipment as the authorised officer considers necessary.

(8) A person who is brought by an authorised officer to provide assistance may exercise any powers conferred on the officer by these Regulations, but only under the supervision or direction of the officer.

Warrants

6.—(1) A justice of the peace may, by signed warrant, permit an authorised officer to enter premises if the justice, on sworn information in writing or, in Northern Ireland, on a sworn complaint in writing, is satisfied—

- (a) that there are reasonable grounds to enter those premises for the purpose of enforcing a relevant provision; and
- (b) that any of the conditions in paragraph (2) are met.

(2) The conditions are—

- (a) entry to the premises has been, or is likely to be refused, and notice of the intention to apply for a warrant has been served on the occupier a reasonable period in advance of the application;
- (b) asking for admission to the premises, or serving such notice, would defeat the object of the entry;
- (c) entry is required urgently; or
- (d) the premises are unoccupied or the occupier is temporarily absent.

(3) A warrant may permit an authorised officer to enter by reasonable force if necessary, except in the case of any premises used wholly or mainly as a private dwelling house.

(4) A warrant is valid for three months.

(5) In this regulation, “justice of the peace” in Northern Ireland means a lay magistrate.

Power to inspect and seize etc.

7.—(1) An authorised officer who has entered premises for the purposes of enforcing a relevant provision may for that purpose—

- (a) inspect and search the premises;

- (b) carry out such investigations or tests as may reasonably be necessary;
 - (c) examine any fish, containers for fish and labels found on the premises;
 - (d) seize and detain any fish in respect of which the officer has reasonable grounds to suspect that there has been a contravention of the relevant provision;
 - (e) seize and detain any containers for fish and labels which the officer has reasonable grounds to suspect are relevant to the commission of an offence under these Regulations;
 - (f) take samples from any fish (and send them for laboratory testing);
 - (g) require any person not to remove or cause to be removed any fish from the premises for such period as may be necessary for the purpose of examination of it by the authorised officer;
 - (h) require any person at the premises to produce any documents which are in the possession or custody of that person relating to the catching, landing, grading or marketing of any fish on the premises;
 - (i) inspect and take copies of any documents;
 - (j) have access to, inspect and check the data on any computer and any associated equipment;
 - (k) require a person to render a document or record held on a computer into a visible or legible form;
 - (l) take copies of any data held on any computer or associated equipment; and
 - (m) require any person to provide any such assistance, information, facilities or equipment as is reasonable.
- (2) An authorised officer must—
- (a) as soon as reasonably practicable, provide to the person appearing to be responsible for any item that the authorised officer seizes under paragraph (1) a written receipt for that item; and
 - (b) as soon as is reasonably practicable after deciding that the item is no longer required, return it to that person, apart from—
 - (i) any item to be used as evidence in court proceedings; and
 - (ii) any fish.
- (3) Where an authorised officer has seized items under paragraph (1) for use in evidence in court proceedings and—
- (a) it is subsequently decided—
 - (i) that no court proceedings are to be brought, or
 - (ii) that those items are no longer needed as evidence in court proceedings, or
 - (b) the court proceedings are completed and no order in relation to those items has been made by the court,

an authorised officer must return the items to the person appearing to be responsible for them as soon as is reasonably practicable.

(4) In this regulation, “fish” means any fishery or aquaculture product that an authorised officer reasonably believes is a product listed in Article 3 of Regulation 2406/96 or Annex 1 of Regulation 1379/2013.

Compliance notices

8.—(1) An authorised officer who has reasonable grounds for believing that a person has contravened, or is likely to contravene, a relevant provision may serve a notice (a “compliance notice”) on that person.

- (2) The authorised officer must in the compliance notice—
- (a) state the reason for the service of the notice;

- (b) state the date of service of the notice;
- (c) identify the recipient of the notice;
- (d) specify the steps which the recipient of the notice must take, being such steps as the authorised officer believes are necessary to ensure compliance with the relevant provision;
- (e) state the reason that those steps must be taken;
- (f) specify by when each of the steps must be taken;
- (g) state that failure to comply with the notice is an offence; and
- (h) give details of the right of appeal against the notice, including an explanation of how such an appeal can be made and the period within which such an appeal may be brought.

(3) An authorised officer may serve a notice on a person withdrawing, varying or suspending a compliance notice served under paragraph (1).

(4) A person on whom a compliance notice is served must comply with it at that person's own expense.

(5) If a compliance notice is not complied with, an authorised officer may arrange for it to be complied with at the expense of the person on whom it was served.

(6) An authorised officer must serve a completion notice on a person if, after service of a compliance notice on that person, the authorised officer is satisfied that that person has taken the steps specified in the notice to remedy the contravention.

(7) In the event of an authorised officer not being satisfied as mentioned in paragraph (6) by the end of the period specified in paragraph (2)(f), or such other period as may be specified in any variation of the compliance notice under paragraph (3), the authorised officer may not serve a completion notice, and must serve a notice, which must—

- (a) give reasons for the decision not to serve a completion notice; and
- (b) give details about the right of appeal against the decision.

(8) A compliance notice ceases to have effect when a completion notice is served.

Further provision about notices

9.—(1) A notice required or authorised to be served under these Regulations on any person must be in writing and may be served on a person by—

- (a) personal delivery;
- (b) leaving it at the person's proper address; or
- (c) sending it by post or by electronic means to the person's proper address.

(2) In the case of a body corporate, a notice may be served on an officer of that body.

(3) In the case of a partnership, a notice may be served on a partner or person who has control or management of the partnership business.

(4) In the case of an unincorporated association, a notice may be served on an officer of the association or a member of its governing body.

(5) For the purposes of this regulation and section 7 of the Interpretation Act 1978^(a) (references to service by post) in its application to this regulation, "proper address" means—

- (a) in the case of a body corporate or an officer of that body—
 - (i) the address of the registered or principal office of the body; or
 - (ii) the email address of the officer;
- (b) in the case of a partnership or a partner or person who has control or management of the partnership business—

(a) 1978 c. 30.

- (i) the address of the registered or principal office of the partnership; or
- (ii) the email address of the partner or person who has control or management of the partnership business;
- (c) in the case of an unincorporated association or an officer of the association or member of its governing body—
 - (i) the address of the principal office of the association; or
 - (ii) the email address of the officer or member;
- (d) in any other case, a person's last known address, which includes an email address.

(6) For the purposes of paragraph (5), the principal office of a body corporate registered outside the United Kingdom or of a partnership or unincorporated association carrying on a business outside the United Kingdom is its principal office in the United Kingdom.

(7) If a person to be served with a notice has specified an address in the United Kingdom (other than that person's proper address) at which that person or someone on that person's behalf will accept notices, that address must instead be treated as that person's proper address.

Appeals: England and Wales

10.—(1) This regulation applies in relation to England and Wales only.

- (2) A person on whom a compliance notice has been served may appeal against—
 - (a) the decision of an authorised officer to serve that compliance notice; or
 - (b) a decision of an authorised officer not to serve a completion notice in relation to that compliance notice.
- (3) The right of appeal is to the First-tier Tribunal.
- (4) A compliance notice is not suspended pending the determination or withdrawal of an appeal unless the First-tier Tribunal directs otherwise.
- (5) On appeal under this regulation, the First-tier Tribunal may—
 - (a) either cancel or confirm the compliance notice, and, if it confirms the notice, it may do so either in its original form or with such modifications as it thinks fit; or
 - (b) make such order as it thinks fit as regards a decision not to serve a completion notice.

Appeals: Northern Ireland

11.—(1) This regulation applies in relation to Northern Ireland only.

- (2) A person on whom a compliance notice has been served may appeal against—
 - (a) the decision of an authorised officer to serve that compliance notice; or
 - (b) a decision of an authorised officer not to serve a completion notice in relation to that compliance notice.
- (3) The appeal must be made within 28 days of notification of the decision to be appealed.
- (4) The right of appeal is to a court of summary jurisdiction (within the meaning of the Magistrates' Courts (Northern Ireland) Order 1981(a)) and the procedure on an appeal is by way of notice under Part 7 of that Order.
- (5) A compliance notice is not suspended pending the determination or withdrawal of an appeal unless the court directs otherwise.
- (6) On appeal under this regulation, the court may—
 - (a) either cancel or confirm the compliance notice, and, if it confirms the notice, it may do so either in its original form or with such modifications as it thinks fit; or

(a) S.I. 1981/1675 (N.I. 26).

- (b) make such order as it thinks fit as regards a decision not to serve a completion notice.

Offences: general

12.—(1) A person commits an offence if that person contravenes, or causes or permits a person to contravene, a relevant provision.

(2) A person commits an offence if that person fails to comply with a compliance notice served under regulation 8.

(3) But it is a defence for a person charged with an offence under paragraph (1) or (2) to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Obstruction offences

13. A person commits an offence if that person—

- (a) intentionally obstructs an authorised officer exercising a power under these Regulations;
- (b) fails, without reasonable excuse, to give any assistance or information that the authorised officer may reasonably require for the performance of that officer's functions under these Regulations;
- (c) knowingly or recklessly gives false or misleading information to an authorised officer; or
- (d) fails to produce a label, document or record to an authorised officer when required to do so.

Offences by bodies corporate, partnerships and unincorporated associations

14.—(1) Where a body corporate is guilty of an offence under these Regulations and that offence is proven to have been committed with the consent or connivance of, or to have been attributed to any neglect on the part of—

- (a) a director, manager, secretary or other similar officer of the body corporate, or
- (b) a person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of the offence.

(2) In paragraph (1), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where a partnership is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a partner, the partner, as well as the partnership, is guilty of the offence.

(4) In paragraph (3), “partner”, includes a person purporting to act as a partner.

(5) Where an unincorporated association is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, an officer of the association, that officer, as well as the association, is guilty of the offence.

(6) In paragraph (5), “officer”, in relation to an unincorporated association, means—

- (a) an officer of the association or a member of its governing body; or
- (b) a person purporting to act in that capacity.

Penalties

15. A person guilty of an offence under regulation 12 or 13 is liable on summary conviction—

- (a) in England and Wales, to a fine; or
- (b) in Northern Ireland, to a fine not exceeding level 5 on the standard scale.

Protection of authorised officers acting in good faith

16.—(1) An authorised officer or person accompanying that officer by virtue of regulation 5(7)(a) is not to be liable in any civil or criminal proceedings for anything done or omitted to be done in, or in connection with, the exercise or the purported exercise of the powers in these Regulations.

(2) Paragraph (1) does not apply—

- (a) if the act or omission is shown to have been in bad faith;
- (b) if there were no reasonable grounds for the act or omission; or
- (c) so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights Act 1998^(a) (acts of public authorities incompatible with Convention rights).

Time limit for bringing prosecution

17.—(1) Proceedings for an offence under these Regulations may be commenced within the period of 16 months beginning with the date on which the prosecutor first knows of evidence sufficient, in the prosecutor's opinion, to justify proceedings.

(2) But no such proceedings may be commenced after the period of two years beginning with the date of the commission of the offence.

(3) For the purposes of this regulation—

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which the prosecutor first knew of evidence sufficient to justify the proceedings is conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be signed is deemed to be so signed unless the contrary is proved.

Proceedings against partnerships and unincorporated associations

18.—(1) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or an unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings the following apply as if the partnership or unincorporated association were a body corporate—

- (a) rules of court relating to the service of documents;
- (b) in relation to England and Wales, section 33 of the Criminal Justice Act 1925^(b) and Schedule 3 to the Magistrates' Courts Act 1980^(c); and
- (c) in relation to Northern Ireland, Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981^(d) (corporations) and section 18 of the Criminal Justice Act (Northern Ireland) 1945 (procedure on charge)^(e).

(3) A fine imposed on a partnership or unincorporated association on its conviction of an offence under these Regulations is to be paid out of the funds of the partnership or association.

(a) 1998 c. 42.

(b) 1925 c. 86. Relevant amending enactments are the Magistrates' Courts Act 1952 (c. 55), Schedule 6 and the Courts Act 1971 (c. 23), paragraph 19 of Schedule 8.

(c) 1980 c. 43. Relevant amending enactments are the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13 and the Criminal Justice Act 2003 (c. 44), paragraph 51(13) of Schedule 3 and Schedule 37.

(d) S.I. 1981/1675 (N.I. 26).

(e) 1945 c. 15.

Enforcement

19.—(1) The relevant provisions are enforced by the enforcement authority in accordance with these Regulations, subject to paragraph (3).

(2) The enforcement authority may institute proceedings under these Regulations.

(3) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.

Revocations

20. The following instruments are revoked—

- (a) The Sea Fish (Marketing Standards) Regulations 1986(a);
- (b) The Sea Fish (Marketing Standards) (Amendment) Regulations 1989(b);
- (c) The Sea Fish (Marketing Standards) (Amendment) Regulations 1994(c).

26th March 2018

George Eustice
Minister of State
Department for Environment, Food and Rural Affairs

26th March 2018

Lesley Griffiths
Cabinet Secretary for Energy, Planning and Rural Affairs
One of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enable the enforcement, in England, Wales and Northern Ireland, of EU common marketing standards for fishery products contained in—

- Council Regulation (EC) No. 2406/96 laying down common marketing standards for certain fishery products (OJ No. L334, 23.12.1996, p. 1); and
- Regulation (EU) No. 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products (OJ No. L 354, 28.12.2013, p. 1).

These Regulations make provision for enforcement authorities in England, Wales and Northern Ireland to appoint authorised officers for the purposes of ensuring that EU common marketing standards for fisheries products are complied with (regulation 4).

Authorised officers are provided with powers of entry, inspection and seizure for the purposes of investigation and inspection of relevant premises and products to identify breaches of the relevant EU requirements (regulations 5 and 7). Authorised officers are also given the power to serve compliance notices for breaches of the relevant EU requirements (regulation 8).

Contravening the EU common marketing standards is an offence (regulation 12(1)). The failure to comply with a compliance notice, within the specified time, is also an offence (regulation 12(2)).

The Regulations make provision for appeals against compliance notices and any refusal to serve a completion notice (regulations 10 and 11).

(a) S.I. 1986/1272, amended by S.I. 1989/687, 1994/452; revoked, in relation to Scotland, by S.S.I. 2004/498.
(b) S.I. 1989/687, revoked, in relation to Scotland, by S.S.I. 2004/498.
(c) S.I. 1994/452, revoked, in relation to Scotland, by S.S.I. 2004/498.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.

Explanatory Memorandum to Sea Fish (Marketing Standards) (England and Wales and Northern Ireland) Regulations 2018

This Explanatory Memorandum has been prepared by the Environment, Planning and Rural Affairs Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Sea Fish (Marketing Standards) (England and Wales and Northern Ireland) Regulations

LESLEY GRIFFITHS

CABINET SECRETARY FOR ENERGY, PLANNING AND RURAL AFFAIRS.

28 March 2018

1. Description

The Sea Fish (Marketing Standards) (England and Wales and Northern Ireland) Regulations 2018 (“the Regulations”) enable the enforcement of common marketing standards (i.e. fish sizes and freshness) contained in Council Regulation (EC) No. 2406/96 laying down common marketing standards for certain fishery products and Regulation (EU) No. 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The Regulations are made on a composite basis to maintain the clarity, accessibility and transparency of the statute book for those required to comply with its provisions. As this composite instrument is subject to approval by the National Assembly for Wales and by the UK Parliament, it is not considered reasonably practicable for this instrument to be made or laid bilingually.

The Regulations are made subject to the negative procedure.

There is a choice of procedure in relation to instruments made under section 2(2) of the European Communities Act 1972. There were no factors indicating the use of affirmative procedure for these Regulations, considering in particular the enforcement measures are intended to bring up to date existing enforcement measures included in the Sea Fish (Marketing Standards) Regulations 1986 which were also made subject to the negative procedure.

In accordance with section 67(9) of the Police and Criminal Evidence Act 1984, officers exercising powers under these Regulations must have regard to that Act.

3. Legislative background

The Welsh Ministers make the Regulations in relation to Wales pursuant to powers in section 2(2) European Communities Act 1972. For the purposes of section 2(2), the Welsh Ministers are designated in relation to the Common Agricultural Policy and, therefore, the Common Fisheries Policy, by virtue of article 3(1) of the European Communities (Designation) (No 5) Order 2010.

The European Common Organisation of the Markets (CMO) in Fishery and Aquaculture Products Regulation 1379/2013 is the mechanism with which the EU manages the market and maximises value for EU seafood products.

These Regulations enable the enforcement, in England, Wales and Northern Ireland of EU common marketing standards for fishery products contained in—

- Council Regulation (EC) No. 2406/96 laying down common marketing standards for certain fishery products; and

- Regulation (EU) No. 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products.

Provisions for the enforcement of sea fish marketing standards in England, Wales, Northern Ireland and Scotland are currently set out in the Sea Fish (Marketing Standards) Regulations 1986 as amended by the Sea Fish (Marketing Standards) (Amendment) Regulations 1989. This instrument will revoke and replace those instruments.

The other provisions of the CMO regulation which required domestic legislation were implemented in England and Wales through the introduction of the Fish Labelling Regulations 2013 and the Fish Labelling (Amendment) Regulations 2014

4. Purpose & intended effect of the legislation

This instrument is necessary to ensure the proper enforcement of the marketing standards laid out in the CMO regulation.

The CMO regulation is the mechanism by which the EU manages the market and maximises value for EU seafood products. A CMO regulation was first introduced in 1970 aiming to provide market stability, ensure a stable supply of quality products, guarantee a fair income for producers and ensure reasonable prices for consumers.

The revised CMO regulation was adopted in 2013 in response to consumer drive for greater information on sustainability, provenance and quality of fish and aquaculture products. The new provisions relate to marketing standards (fish sizes and freshness) and their enforcement, consumer information (fish labelling requirements), Producer Organisations (to plan members' production and develop joint marketing strategies) and their activities, competition rules (such as information on storage, treatment or processing of fishery products) and market intelligence.

The new labelling provisions were transposed through The Fish Labelling Regulations 2013 and The Fish Labelling (Amendment) Regulations 2014. The provisions concerning Producer Organisations were directly applicable and we consider that the current oversight mechanisms are sufficient to monitor PO performance and compliance. This element therefore does not require national legislation. Enforcement provisions for the marketing standards are now being introduced through this instrument. That completes the national legislation required to implement the CMO regulation.

The enforcement provisions introduced by this instrument will bring up-to-date the enforcement provisions for the marketing standards, which are set out in the Sea Fish (Marketing Standards) Regulations 1986 and which relate to the previous version of the CMO. The 1986 enforcement provisions only allow enforcement officers to prosecute for instances of non-compliance with the marketing standards. The new SI applies enforcement provisions to the revised CMO and brings the powers up to date.

This instrument retains the prosecution element for which we have extended the time limit for bringing prosecutions to allow prosecutors sufficient time to collect and process evidence necessary for regulatory offences.

The enforcement provisions in this instrument are needed in order to ensure that marketed fish do not undermine the minimum fish landing sizes specified in the technical conservation regulation and by implication promote fishing for juveniles.

The instrument also introduces civil enforcement procedures as a more flexible and responsive approach to enforcement, which would help to maximise compliance from the fish and aquaculture sector. Specifically, we are proposing to allow for enforcement of the marketing standards by issuing, in the first instance, compliance notices which will specify the steps which the recipient of the notice must take to ensure compliance with the marketing standards. Breach of compliance notices will be an offence and this instrument also introduces an appeals route against such notices.

5. Consultation

The provisions outlined in the new CMO had been previously consulted on in 2011 as part of a series of EU consultations during the review of the Common Fisheries Policy (CFP).

Following the 2011 consultation, Defra conducted a subsequent public consultation on the final CMO proposals over a period of six weeks from 31 March 2014. The 2014 Defra consultation proposed to update legislation in England and Wales to allow for the fish labelling provisions to be introduced into UK law and to bring up to date the enforcement provisions for the common marketing standards. These changes were required to allow for the minimum marketing sizes to align with the Minimum Landing Sizes (MLS) set up in the revised Common Fisheries Policy (CFP).

Five responses to the 2014 consultation were received. Four of these were broadly supportive of the proposed enforcement provisions as a better alternative to the current enforcement regime of direct prosecution. One respondent was doubtful of the effectiveness of the proposed compliance notices as a deterrent against non-compliance. However, to address persistent and high level offenders enforcement officers will be able to prosecute directly for serious offences of non-compliance and for non-compliance with the notices.

6. Regulatory Impact Assessment (RIA)

An RIA has not been completed for these Regulations. The Regulations are not expected to impose an additional cost on the public or voluntary sectors in Wales. Similarly, the Regulations are not expected to impose an additional cost on fisheries businesses which comply with the law, however, costs may be incurred by businesses which choose to operate outside of the law. Defra will incur the cost

associated with establishing a new tribunal to hear appeals against a compliance notice and non-removal of a compliance notice

Failure to introduce these Regulations risks infraction proceedings against the UK by the EU and the associated costs.

SL(5)207 - Rheoliadau Pysgod Môr (Safonau Marchnata) (Cymru a Lloegr a Gogledd Iwerddon) 2018

Cefndir a Diben

Mae'r Rheoliadau hyn yn galluogi gorfodi, yng Nghymru, Lloegr a Gogledd Iwerddon, safonau marchnata cyffredin yr UE ar gyfer cynhyrchion pysgodfeydd a geir yn—

- Rheoliad y Cyngor (EC) Rhif 2406/96 sy'n gosod safonau marchnata cyffredin ar gyfer cynhyrchion pysgodfeydd penodol; a
- Rheoliad (UE) Rhif 1379/2013 Senedd Ewrop a'r Cyngor ar drefniadaeth gyffredin y marchnadoedd mewn cynhyrchion pysgodfeydd a dyframaeth.

Mae'r Rheoliadau hyn yn gwneud darpariaeth ar gyfer awdurdodau gorfodaeth yng Nghymru, Lloegr a Gogledd Iwerddon i benodi swyddogion awdurdodedig at ddibenion sicrhau y cydymffurfir â safonau marchnata cyffredin yr UE ar gyfer cynhyrchion pysgodfeydd (rheoliad 4).

Rhoddir pwerau mynediad, arolygu ac atafael i swyddogion awdurdodedig at ddibenion ymchwilio ac archwilio mangreoedd a chynhyrchion perthnasol i nodi achosion o dorri gofynion perthnasol yr UE (rheoliadau 5 a 7). Rhoddir pŵer i swyddogion awdurdodedig hefyd gyflwyno hysbysiadau cydymffurfio am dorri gofynion perthnasol yr UE (rheoliad 8).

Mae mynd yn groes i safonau marchnata cyffredin yr UE yn drosedd (rheoliad 12(1)). Mae methu â chydymffurfio â hysbysiad cydymffurfio, o fewn yr amser penodedig, hefyd yn drosedd (rheoliad 12(2)).

Mae'r Rheoliadau'n darparu ar gyfer apeliadau yn erbyn hysbysiadau cydymffurfio ac unrhyw achos o wrthod cyflwyno hysbysiad cwblhau (rheoliadau 10 ac 11).

Y weithdrefn

Penderfyniad negyddol, cyfansawdd.

Materion technegol: craffu

Nodwyd dau bwynt i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.2(v) - mae angen eglurhad pellach ar ystyr yr offeryn.

Mae Rheoliad 5 yn nodi pŵer i fynd i mewn i fangre. Mae Rheoliad 5(5) yn dweud bod yn rhaid i swyddog awdurdodedig, os gofynnir iddo wneud hynny, ddangos dogfen wedi'i dilysu'n briodol sy'n dangos awdurdod y swyddog hwnnw.

Nid yw'n glir inni pwy sy'n gallu gwneud cais y mae rheoliad 5(5) yn gymwys iddo. (Efallai y bydd llawer o bobl yn bresennol yn y fangre pan fydd camau gorfodi yn cael eu cymryd.) Rhaid iddo fod yn gymwys pan fydd meddiannydd y fangre yn gwneud cais, ond i bwy arall y mae'n berthnasol? A yw'n berthnasol i unrhyw aelod o deulu'r meddiannydd? A yw'n berthnasol i berson a gontractiwyd i gynnal gwasanaethau glanhau yn y fangre? A yw'n berthnasol i gyfranddaliwr cwmni sy'n berchen ar y fangre? A yw'n berthnasol i rywun sy'n digwydd mynd heibio?



2. Rheol Sefydlog 21.2(ix) – nad yw'r offeryn wedi'i wneud yn Gymraeg ac yn Saesneg.

Mae'r Rheoliadau hyn wedi cael eu gwneud fel offeryn cyfansawdd, sy'n golygu bod y Rheoliadau hyn: (a) wedi cael eu gwneud gan Weinidogion Cymru a'r Ysgrifennydd Gwladol, a (b) wedi cael eu gosod gerbron Cynulliad Cenedlaethol Cymru a Senedd y DU.

Roedd Gweinidogion Cymru o'r farn nad oedd yn rhesymol ymarferol i'r Rheoliadau hyn gael eu gwneud yn Gymraeg a Saesneg.

Craffu ar y rhinweddau

Nodwyd dau bwynt i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.3(ii) – mae'r offeryn o bwysigrwydd gwleidyddol neu gyfreithiol neu mae'n codi materion polisi cyhoeddus sy'n debygol o fod o ddiddordeb i'r Cynulliad.

Mae'r Memorandwm Esboniadol yn dweud y dylai swyddogion gorfodi sy'n arfer pwerau gorfodi o dan y Rheoliadau roi sylw i Ddeddf Heddlu a Thystiolaeth Droseddol 1984. Fodd bynnag, y sefyllfa gywir yw bod yn rhaid i swyddogion gorfodi ystyried y codau ymarfer statudol a wnaed o dan Ddeddf 1984.

Er gwaethaf mynegi pryderon ynghylch defnyddio Codau Ymarfer PACE ar sawl achlysur, nodwn fod cyfeiriadau anghywir at ddefnyddio Codau PACE yn gyffredin o hyd.

2. Rheol Sefydlog 21.3(ii) – mae'r offeryn o bwysigrwydd gwleidyddol neu gyfreithiol neu mae'n codi materion polisi cyhoeddus sy'n debygol o fod o ddiddordeb i'r Cynulliad.

Mae Rheoliad 6 yn nodi'r broses ar gyfer gwneud cais am warant i fynd i mewn i fangre. Mae rheoliad 6(4) yn dweud bod gwarant i fynd i mewn i fangre (sy'n gallu cynnwys cartref person) yn ddilys am dri mis. Rydym yn cwestiynu a yw'n gymesur cael gwarantau sy'n ddilys am gyfnod cyffredin o dri mis, yn arbennig lle, er enghraifft, efallai y bydd yr holl achosion gofynnol o fynd i mewn i'r fangre wedi digwydd o fewn diwrnod neu ddau.

Rydym yn derbyn y gall amgylchiadau newydd ddod i'r amlwg y gallai fod angen ail-fynediad ar eu cyfer, ond yn yr achos hwnnw efallai y bydd yn fwy cymesur gwneud cais am warant newydd, yn enwedig pan fydd y warant yn ymwneud â mynd i mewn i gartref person.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Mae'r Rheoliadau hyn yn rhan o "ddeddfwriaeth ddomestig sy'n deillio o'r UE" o dan gymal 2 o Fil yr Undeb Ewropeaidd (Ymadael) (y Bil), felly bydd y Rheoliadau hyn yn cael eu cadw fel cyfraith ddomestig a byddant yn parhau i fod mewn grym yng Nghymru ar ôl y diwrnod ymadael. Mae'r Bil yn rhoi pŵer i Weinidogion Cymru addasu'r Rheoliadau hyn er mwyn ymdrin â diffygion sy'n deillio o ymadael â'r UE, yn amodol ar rai cyfyngiadau.

O ran Rheoliadau'r UE sy'n cael eu gorfodi gan y Rheoliadau hyn, mae Rheoliadau'r UE yn cael eu hystyried yn 'ddeddfwriaeth uniongyrchol yr UE a ddargedwir' o dan y Bil. Fel y'i drafftwyd, nid yw'r Bil yn rhoi pŵer i Weinidogion Cymru (na Chynulliad Cenedlaethol Cymru) addasu unrhyw ddeddfwriaeth



uniongyrchol yr UE a ddargedwir. Rhoddir pŵer i addasu holl ddeddfwriaeth uniongyrchol yr UE a ddargedwir i Weinidogion y DU; mae hyn yn cynnwys y pŵer i addasu deddfwriaeth uniongyrchol yr UE a ddargedwir mewn meysydd datganoledig.

Fodd bynnag, mae Llywodraeth y DU wedi ymrwmo i gyflwyno gwelliannau i'r Bil yn ystod y cyfnod adrodd yn Nhŷ'r Arglwyddi y disgwylir iddynt godi'r cyfyngiadau hyn i ryw raddau.

Ymateb y Llywodraeth

Mae angen ymateb y llywodraeth i'r pwyntiau craffu technegol a rhinweddau.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

4 Ebrill 2018



Eitem 3.2

OFFERYNNAU STATUDOL
CYMRU

2018 Rhif 433 (Cy. 76)

AMAETHYDDIAETH, CYMRU

Gorchymyn Cyflogau Amaethyddol (Cymru) 2018

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Yn ddarostyngedig i rai newidiadau ac un ddarpariaeth drosiannol, mae'r Gorchymyn hwn yn dirymu ac yn disodli Gorchymyn Cyflogau Amaethyddol (Cymru) 2017.

Mae Rhan 2 o'r Gorchymyn yn darparu bod gweithwyr amaethyddol i gael eu cyflogi yn ddarostyngedig i'r telerau a'r amodau sydd wedi eu nodi yn Rhannau 2 i 5 o'r Gorchymyn (erthygl 3) ac yn pennu'r graddau a'r categorïau gwahanol o weithiwr amaethyddol (erthyglau 5 i 11).

Mae Rhan 3 yn gwneud darpariaeth ynghylch y cyfraddau tâl isaf y mae'n rhaid eu talu i weithwyr amaethyddol (erthygl 12). Mae darpariaeth yn cael ei gwneud ar gyfer lwfans gwrthbwysio llety a all gael ei dynnu oddi ar dâl gweithiwr amaethyddol (erthygl 15). Mae darpariaeth yn cael ei gwneud hefyd ar gyfer lwfans cŵn, lwfans ar alwad, lwfans gwaith nos a grantiau geni a mabwysiadu nad ydynt yn ffurfio rhan o dâl gweithiwr amaethyddol (erthygl 16).

Mae Rhan 4 yn darparu bod gan weithiwr amaethyddol hawl i gael tâl salwch amaethyddol o dan yr amgylchiadau sydd wedi eu pennu (erthyglau 18 i 21). Mae darpariaeth yn cael ei gwneud ynghylch cyfrifo faint o dâl salwch amaethyddol y mae gan weithiwr amaethyddol hawl i'w gael (erthygl 22). Mae taliad tâl salwch statudol i gyfrif tuag at hawl gweithiwr amaethyddol i gael tâl salwch amaethyddol (erthygl 23).

Mae Rhan 5 yn gwneud darpariaeth ynghylch hawl gweithiwr amaethyddol i gael amser i ffwrdd. Mae darpariaeth yn cael ei gwneud ynghylch hawl gweithiwr amaethyddol i gael seibiannau gorffwys (erthygl 28). Mae darpariaeth yn cael ei gwneud hefyd sy'n pennu blwyddyn gwyliau blynyddol y gweithiwr amaethyddol ac ynghylch hawl gweithiwr

amaethyddol i gael gwyliau blynyddol a thâl gwyliau ac ynghylch taliad yn lle gwyliau blynyddol (erthyglau 29 i 36). Mae darpariaeth ynghylch hawl gweithiwr amaethyddol i gael absenoldeb â thâl oherwydd profedigaeth yn cael ei gwneud yn erthyglau 39 i 41.

Mae Rhan 6 yn cynnwys dirymiad a darpariaeth drosiannol.

Mae'r Asesiad Effaith Rheoleiddiol sy'n gymwys i'r Gorchymyn hwn ar gael oddi wrth Lywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ ac ar wefan Llywodraeth Cymru yn www.llyw.cymru.

OFFERYNNAU STATUDOL
CYMRU

2018 Rhif 433 (Cy. 76)

AMAETHYDDIAETH, CYMRU

**Gorchymyn Cyflogau Amaethyddol
(Cymru) 2018**

Gwnaed 27 Mawrth 2018

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 29 Mawrth 2018

Yn dod i rym 1 Ebrill 2018

CYNNWYS

RHAN 1

Rhagarweiniol

1. Enwi a chychwyn
2. Dehongli

RHAN 2: Gweithwyr amaethyddol

3. Telerau ac amodau cyflogaeth
4. Graddau a chategoriâu gweithiwr amaethyddol
5. Gradd 2
6. Gradd 3
7. Gradd 4
8. Gradd 5
9. Gradd 6
10. Datblygu Proffesiynol Parhaus
11. Prentisiaid

RHAN 3

Yr isafswm cyflog amaethyddol

12. Cyfraddau tâl isaf
13. Cyfraddau tâl isaf am oramser
14. Cyfraddau tâl isaf am waith allbwn
15. Lwfans gwrthbwyso llety
16. Taliadau nad ydynt yn ffurfio rhan o dâl gweithiwr amaethyddol
17. Costau hyfforddi

RHAN 4

Yr hawl i gael tâl salwch amaethyddol

18. Yr hawl i gael tâl salwch amaethyddol
19. Amodau cymhwyso ar gyfer tâl salwch amaethyddol
20. Cyfnodau absenoldeb salwch
21. Cyfyngiadau ar yr hawl i dâl salwch amaethyddol
22. Pennu swm tâl salwch amaethyddol
23. Tâl salwch amaethyddol i gymryd tâl salwch statudol i ystyriaeth
24. Talu tâl salwch amaethyddol
25. Cyflogaeth yn dod i ben yn ystod absenoldeb salwch
26. Gordalu tâl salwch amaethyddol
27. Iawndal a adenillir yn sgil colli enillion

RHAN 5

Yr hawl i gael amser i ffwrdd

28. Seibiannau gorffwys
29. Y flwyddyn gwyliau blynyddol
30. Swm gwyliau blynyddol gweithwyr amaethyddol a chanddynt ddiwrnodau gweithio penodedig a gyflogir drwy gydol y flwyddyn gwyliau
31. Swm gwyliau blynyddol gweithwyr amaethyddol a chanddynt ddiwrnodau gweithio amrywiol a gyflogir drwy gydol y flwyddyn gwyliau
32. Swm gwyliau blynyddol gweithwyr amaethyddol a gyflogir am ran o'r flwyddyn gwyliau
33. Amseru gwyliau blynyddol
34. Tâl gwyliau
35. Gwyliau cyhoeddus a gwyliau banc
36. Taliad yn lle gwyliau blynyddol
37. Talu tâl gwyliau wrth derfynu cyflogaeth
38. Adennill tâl gwyliau
39. Absenoldeb oherwydd profedigaeth
40. Pennu swm absenoldeb oherwydd profedigaeth
41. Swm tâl absenoldeb oherwydd profedigaeth
42. Absenoldeb di-dâl

RHAN 6

Dirymu a darpariaeth drosiannol

43. Dirymu a darpariaeth drosiannol

ATODLEN 1 – Dyfarniadau a thystysgrifau

cymhwysedd gweithwyr

Gradd 2

ATODLEN 2 – Dyfarniadau a thystysgrifau

cymhwysedd gweithwyr

Gradd 3

ATODLEN 3 – Dyfarniadau a thystysgrifau

cymhwysedd gweithwyr

Gradd 4

ATODLEN 4 – Cyfraddau tâl isaf

ATODLEN 5 – Hawliau gwyliau blynyddol

ATODLEN 6 – Taliad yn lle gwyliau

blynyddol

Mae Panel Cyngori ar Amaethyddiaeth Cymru, yn unol â'i swyddogaethau o dan erthygl 3(2)(b) o Orchymyn Panel Cyngori ar Amaethyddiaeth Cymru (Sefydlu) 2016(1), wedi llunio gorchymyn cyflogau amaethyddol ar ffurf ddrafft, wedi ymgynghori ar y gorchymyn ac wedi ei gyflwyno i Weinidogion Cymru i'w gymeradwyo ganddynt.

Mae Gweinidogion Cymru wedi cymeradwyo'r gorchymyn cyflogau amaethyddol drafft yn unol ag adran 4(1)(a) o Ddeddf Sector Amaethyddol (Cymru) 2014(2).

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 3, 4(1) a 17 o Ddeddf Sector Amaethyddol (Cymru) 2014, yn gwneud y Gorchymyn a ganlyn.

RHAN 1

Rhagarweiniol

Enwi a chychwyn

1. Enw'r Gorchymyn hwn yw Gorchymyn Cyflogau Amaethyddol (Cymru) 2018 ac mae'n dod i rym ar 1 Ebrill 2018.

Dehongli

2.—(1) Yn y Gorchymyn hwn—

ystyr “absenoldeb salwch” (“*sickness absence*”) yw absenoldeb unrhyw weithiwr amaethyddol o'r gwaith oherwydd analluedd yn sgil—

(1) O.S. 2016/255 (Cy. 89).

(2) 2014 dccc 6.

- (a) unrhyw salwch a ddioddefir gan y gweithiwr amaethyddol;
- (b) salwch neu analluedd a achosir am fod y gweithiwr amaethyddol yn feichiog neu a ddioddefir o ganlyniad i eni plentyn;
- (c) anaf sy'n digwydd i'r gweithiwr amaethyddol yn ei le gwaith;
- (d) anaf sy'n digwydd i'r gweithiwr amaethyddol wrth deithio yn ôl ac ymlaen i'w le gwaith;
- (e) amser a dreulir gan y gweithiwr amaethyddol yn ymadfer ar ôl llawdriniaeth a achoswyd gan salwch; neu
- (f) amser a dreulir gan y gweithiwr amaethyddol yn ymadfer ar ôl llawdriniaeth o ganlyniad i anaf a ddioddefwyd yn ei le gwaith neu anaf a ddioddefwyd wrth deithio yn ôl ac ymlaen i'w le gwaith,

ond nid yw'n cynnwys unrhyw anaf a ddioddefir gan y gweithiwr amaethyddol pan na fo yn ei le gwaith nac unrhyw anaf a ddioddefir pan na fo'r gweithiwr amaethyddol yn teithio yn ôl ac ymlaen i'w le gwaith;

ystyr "amser gweithio" ("*working time*") yw unrhyw gyfnod pryd y mae gweithiwr amaethyddol yn gweithio yng ngwasanaeth ei gyflogwr ac yn cyflawni ei weithgareddau neu ei ddyletswyddau yn unol â naill ai ei contract gwasanaeth neu ei brentisiaeth ac mae'n cynnwys—

- (a) unrhyw gyfnod pryd y mae gweithiwr amaethyddol yn derbyn hyfforddiant perthnasol;
- (b) unrhyw gyfnod a dreulir gan weithiwr amaethyddol yn teithio at ddibenion ei gyflogaeth ond nad yw'n cynnwys amser a dreulir yn teithio rhwng ei gartref a'i le gwaith;
- (c) unrhyw gyfnod y mae gweithiwr amaethyddol yn cael ei rwystro rhag cyflawni gweithgareddau neu ddyletswyddau yn unol â'i contract gwasanaeth neu ei brentisiaeth oherwydd tywydd drwg; a
- (d) unrhyw gyfnod ychwanegol y mae'r cyflogwr a'r gweithiwr amaethyddol yn cytuno ei fod i'w drin fel amser gweithio,

ac mae cyfeiriadau at "gwaith" ("*work*") i'w dehongli yn unol â hyn;

ystyr "ar alwad" ("*on-call*") yw trefniant ffurfiol rhwng y gweithiwr amaethyddol a'i gyflogwr pan fo gweithiwr amaethyddol nad yw yn y gwaith yn cytuno â'i gyflogwr y bydd modd cysylltu ag ef drwy gyfrwng y cytunir arno ac y gall gyrraedd y

fan lle y gall fod yn ofynnol iddo weithio o fewn amser y cytunir arno;

ystyr “diwrnodau cymwys” (“*qualifying days*”) yw diwrnodau pan fyddai’n ofynnol fel arfer i’r gweithiwr amaethyddol fod ar gael i weithio heblaw unrhyw ddiwrnodau pan oedd y gweithiwr amaethyddol—

- (a) yn cymryd gwyliau blynyddol;
- (b) yn cymryd absenoldeb oherwydd profedigaeth; neu
- (c) yn cymryd absenoldeb mamolaeth, absenoldeb tadolaeth neu absenoldeb mabwysiadu statudol;

ystyr “goramser” (“*overtime*”) yw—

- (a) mewn perthynas â gweithiwr amaethyddol a ddechreuodd ei gyflogaeth cyn 1 Hydref 2006, amser nad yw’n oramser gwarantedig y mae’r gweithiwr amaethyddol yn ei weithio—
 - (i) yn ychwanegol at ddiwrnod gwaith 8 awr;
 - (ii) yn ychwanegol at yr oriau gwaith y cytunwyd arnynt yn ei gontract gwasanaeth;
 - (iii) ar ŵyl gyhoeddus;
 - (iv) ar ddydd Sul; neu
 - (v) mewn unrhyw gyfnod sy’n cychwyn ar ddydd Sul ac yn parhau hyd y dydd Llun canlynol hyd at yr amser y byddai’r gweithiwr hwnnw yn cychwyn ei ddiwrnod gwaith fel arfer;
- (b) mewn perthynas â phob gweithiwr amaethyddol arall, amser nad yw’n oramser gwarantedig y mae’r gweithiwr amaethyddol yn ei weithio—
 - (i) yn ychwanegol at ddiwrnod gwaith 8 awr;
 - (ii) yn ychwanegol at yr oriau gwaith y cytunwyd arnynt yn ei gontract gwasanaeth; neu
 - (iii) ar ŵyl gyhoeddus;

ystyr “goramser gwarantedig” (“*guaranteed overtime*”) yw goramser y mae’n ofynnol i weithiwr amaethyddol ei weithio o dan naill ai ei gontract gwasanaeth neu ei brentisiaeth ac y mae cyflogwr y gweithiwr amaethyddol yn gwarantu taliad ar ei gyfer, p’un a oes gwaith i’r gweithiwr amaethyddol ei wneud neu beidio;

ystyr “grant geni a mabwysiadu” (“*birth and adoption grant*”) yw taliad y mae gan weithiwr amaethyddol hawl i’w gael oddi wrth ei gyflogwr pan enir plentyn iddo neu pan fydd yn mabwysiadu plentyn ac mae’n daladwy—

- (a) pan fo'r gweithiwr amaethyddol wedi rhoi copi i'w gyflogwr o Dystysgrif Geni'r plentyn neu ei Orchymyn Mabwysiadu (sy'n enwi'r gweithiwr fel rhiant y plentyn neu ei riant mabwysiadol) o fewn 3 mis ar ôl geni neu fabwysiadu'r plentyn; a
- (b) o dan amgylchiadau pan fo'r ddau riant neu'r ddau riant mabwysiadol yn weithwyr amaethyddol gyda'r un cyflogwr, i'r ddau weithiwr amaethyddol;

ystyr "gwaith allbwn" ("*output work*") yw gwaith sydd, at ddibenion tâl, yn cael ei fesur yn ôl nifer y darnau a wneir neu a brosesir neu nifer y tasgau a gyflawnir gan weithiwr amaethyddol;

ystyr "gwaith nos" ("*night work*") yw gwaith (heblaw oriau goramser) a wneir gan weithiwr amaethyddol rhwng 7 p.m. un noson a 6 a.m. fore trannoeth, ond heb gynnwys y ddwy awr gyntaf o waith y mae gweithiwr amaethyddol yn ei wneud yn y cyfnod hwnnw;

ystyr "llety arall" ("*other accommodation*") yw unrhyw lety byw heblaw tŷ—

- (a) sy'n addas i bobl fyw ynddo;
- (b) sy'n ddiogel ac yn ddiddos;
- (c) sy'n darparu gwely i'w ddefnyddio gan bob gweithiwr amaethyddol unigol yn unig; a
- (d) sy'n darparu dŵr yfed glân, cyfleusterau glanweithdra addas a digonol a chyfleusterau ymolchi i weithwyr amaethyddol yn unol â rheoliadau 20 i 22 o Reoliadau Gweithleoedd (Iechyd, Diogelwch a Lles) 1992(1) fel pe bai'r llety'n weithle yr oedd rheoliadau 20 i 22 o'r Rheoliadau hynny'n gymwys iddo;

mae i "oedran ysgol gorfodol" yr ystyr a roddir i "*compulsory school age*" yn adran 8 o Ddeddf Addysg 1996(2);

mae "oriau" ("*hours*") yn cynnwys ffracsiwn o awr;

ystyr "oriau sylfaenol" ("*basic hours*") yw 39 awr o waith yr wythnos, heb gynnwys goramser, a weithir yn unol â naill ai contract gwasanaeth neu brentisiaeth gweithiwr amaethyddol;

ystyr "teithio" ("*travelling*") yw siwrnai drwy gyfrwng dull teithio neu siwrnai ar droed yn cynnwys—

- (a) aros wrth fan ymadael i gychwyn siwrnai drwy gyfrwng dull teithio;

(1) O.S. 1992/3004.

(2) 1996 p. 56. Diwygiwyd adran 8 gan adran 52 o Ddeddf Addysg 1997 (p. 44).

- (b) aros wrth fan ymadael i siwrnai ailgychwyn naill ai drwy gyfrwng yr un dull teithio neu drwy gyfrwng un arall, ac eithrio unrhyw amser a dreulir gan y gweithiwr amaethyddol yn cymryd seibiant gorffwys; ac
- (c) aros ar ddiwedd siwrnai i gyflawni dyletswyddau, neu i dderbyn hyfforddiant, ac eithrio unrhyw amser a dreulir gan y gweithiwr amaethyddol yn cymryd seibiant gorffwys;

ystyr “tŷ” (“house”) yw tŷ annedd cyfan neu lety hunangynhwysol y mae’n ofynnol i’r gweithiwr amaethyddol fyw ynddo yn rhinwedd contract gwasanaeth y gweithiwr amaethyddol er mwyn cyflawni ei ddyletswyddau mewn modd priodol neu well ac mae’n cynnwys unrhyw ardd o fewn cwrtil y tŷ annedd neu’r llety hunangynhwysol hwnnw.

(2) Yn yr erthygl hon mae’r cyfeiriad at weithwyr amaethyddol a ddechreuodd eu cyflogaeth cyn 1 Hydref 2006 yn cynnwys gweithwyr amaethyddol—

- (a) y mae telerau eu contract wedi bod yn destun unrhyw amrywiad ers hynny; neu
- (b) sydd wedi eu cyflogi gan gyflogwr newydd ers hynny yn unol â Rheoliadau Trosglwyddo Ymgymeriadau (Diogelu Cyflogaeth) 2006(1).

(3) Mae cyfeiriadau yn y Gorchymyn hwn at gyfnod o gyflogaeth ddi-dor i’w dehongli fel cyfnod o gyflogaeth ddi-dor a gyfrifir yn unol ag adrannau 210 i 219 o Ddeddf Hawliau Cyflogaeth 1996(2).

RHAN 2

Gweithwyr amaethyddol

Telerau ac amodau cyflogaeth

3. Mae cyflogaeth gweithiwr amaethyddol yn ddarostyngedig i’r telerau a’r amodau a nodir yn y Rhan hon ac yn Rhannau 3, 4 a 5 o’r Gorchymyn hwn.

(1) O.S. 2006/246.

(2) 1996 p. 18. Diwygiwyd adran 211 gan Atodlen 8 i O.S. 2006/1031. Diwygiwyd adran 212 gan Atodlenni 4 a 9 i Ddeddf Cysylltiadau Cyflogaeth 1999 (p. 26). Diwygiwyd adran 215 gan Atodlen 7 i Ddeddf Cyfraniadau Nawdd Cymdeithasol (Trosglwyddo Swyddogaethau, etc.) 1999 (p. 2). Diwygiwyd adran 219 gan Atodlen 15 i Ddeddf Hawliau Cyflogaeth (Datrys Anghydfodau) 1998 (p. 8).

Graddau a chategoriâu gweithiwr amaethyddol

4. Rhaid i weithiwr amaethyddol gael ei gyflogi fel gweithiwr ar un o'r Graddau a bennir yn erthyglau 5 i 9 neu 10(1) neu fel prentis yn unol â'r darpariaethau yn erthygl 11.

Gradd 2

5. Rhaid i weithiwr amaethyddol—

- (a) sy'n darparu tystiolaeth ddogfennol i gyflogwr fod ganddo—
 - (i) un o'r dyfarniadau neu'r tystysgrifau cymhwysedd a restrir yn y tablau yn Atodlen 1;
 - (ii) un Cymhwyster Galwedigaethol Cenedlaethol sy'n berthnasol i'w waith; neu
 - (iii) cymhwyster cyfatebol; neu
- (b) y mae'n ofynnol iddo—
 - (i) gweithio heb oruchwyliaeth;
 - (ii) gweithio gydag anifeiliaid;
 - (iii) gweithio â pheiriannau pŵer; neu
 - (iv) gyrru tractor amaethyddol,

gael ei gyflogi fel gweithiwr ar Radd 2.

Gradd 3

6.—(1) Rhaid i weithiwr amaethyddol sydd wedi ei gyflogi mewn amaethyddiaeth am gyfnod agrededig o 2 flynedd o leiaf yn ystod y 5 mlynedd blaenorol ac—

- (a) sy'n darparu tystiolaeth ddogfennol i gyflogwr fod ganddo—
 - (i) un o'r dyfarniadau neu'r tystysgrifau cymhwysedd a restrir yn y tablau yn Atodlen 2;
 - (ii) un Cymhwyster Galwedigaethol Cenedlaethol sy'n berthnasol i'w waith; neu
 - (iii) cymhwyster cyfatebol; neu
- (b) sydd wedi ei ddynodi'n arweinydd tîm,

gael ei gyflogi fel gweithiwr ar Radd 3.

(2) At ddibenion yr erthygl hon, mae “arweinydd tîm” yn gyfrifol am arwain tîm o weithwyr amaethyddol ac am fonitro sut mae'r tîm yn cydymffurfio â chyfarwyddiadau a roddir gan neu ar ran eu cyflogwr ond nid yw'n gyfrifol am faterion disgyblu.

Gradd 4

7. Rhaid i weithiwr amaethyddol—

- (a) sy'n darparu tystiolaeth ddogfennol i gyflogwr fod ganddo gyfanswm o 8 cymhwyster sydd naill ai—
 - (i) yn ddyfarniadau neu dystysgrifau cymhwysedd a restrir yn y tablau yn Atodlen 1;
 - (ii) yn Gymwysterau Galwedigaethol Cenedlaethol sy'n berthnasol i'w waith; neu
 - (iii) yn gymwysterau cyfatebol; neu
- (b) sy'n darparu tystiolaeth ddogfennol i gyflogwr fod ganddo 1 o'r dyfarniadau neu dystysgrifau cymhwysedd a restrir yn y tablau yn Atodlen 3 neu gymhwyster cyfatebol; ac
- (c) sydd naill ai—
 - (i) wedi ei gyflogi mewn amaethyddiaeth am gyfnod agoredig o 2 flynedd o leiaf yn ystod y 5 mlynedd diwethaf; neu
 - (ii) wedi ei gyflogi'n ddi-dor am gyfnod o 12 mis neu ragor o leiaf gan yr un cyflogwr ers ennill y cymwysterau y cyfeirir atynt ym mharagraffau (a) a (b),

gael ei gyflogi fel gweithiwr ar Radd 4.

Gradd 5

8. Rhaid i weithiwr amaethyddol y mae'n ofynnol iddo ysgwyddo cyfrifoldeb o ddydd i ddydd—

- (a) dros oruchwylio'r gwaith a gyflawnir ar ddaliad y cyflogwr;
- (b) dros roi penderfyniadau rheoli ar waith; neu
- (c) dros reoli staff,

gael ei gyflogi fel gweithiwr ar Radd 5.

Gradd 6

9. Rhaid i weithiwr amaethyddol y mae'n ofynnol iddo ysgwyddo cyfrifoldeb rheoli—

- (a) dros ddaliad cyfan y cyflogwr;
- (b) dros ran o ddaliad y cyflogwr a redir fel gweithrediad neu fusnes ar wahân; neu
- (c) dros hurio a rheoli staff,

gael ei gyflogi fel gweithiwr ar Radd 6.

Datblygu Proffesiynol Parhaus

10.—(1) Rhaid i weithiwr amaethyddol na ellir ei gyflogi ar un o Raddau 2 i 6 yn unol â'r ddarpariaeth

yn erthyglau 5 i 9 o'r Gorchymyn hwn ac nad yw'n brentis yn unol ag erthygl 11 gael ei gyflogi fel gweithiwr ar Radd 1.

(2) Mae prentis sydd yn nhrydedd flwyddyn ac unrhyw flwyddyn olynol ei brentisiaeth i fod yn ddarostyngedig i'r cyfraddau tâl isaf ac unrhyw delerau ac amodau eraill yn y Gorchymyn hwn sy'n gymwys i weithwyr amaethyddol a gyflogir ar Radd 2.

(3) Rhaid i weithiwr amaethyddol—

- (a) cadw tystiolaeth ddogfennol o gymwysterau a phrofiad a enillwyd ganddo sy'n berthnasol i'w gyflogaeth; a
- (b) rhoi gwybod i'w gyflogwr os yw wedi ennill cymwysterau a phrofiad sy'n ei alluogi i gael ei gyflogi ar Radd wahanol.

Prentisiaid

11.—(1) Mae gweithiwr amaethyddol yn brentis sydd wedi ei gyflogi o dan brentisiaeth—

- (a) os yw'n cael ei gyflogi o dan naill ai contract prentisiaeth neu gytundeb prentisiaeth o fewn ystyr “apprenticeship agreement” yn adran 32 o Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009(1), neu'n cael ei drin fel pe bai wedi ei gyflogi o dan contract prentisiaeth; a
- (b) os yw o fewn y 12 mis cyntaf ar ôl cychwyn y gyflogaeth honno yn llai na 19 oed.

(2) Rhaid i weithiwr amaethyddol gael ei drin fel pe bai wedi ei gyflogi o dan contract prentisiaeth os yw wedi ei gymryd ymlaen yng Nghymru o dan drefniadau Llywodraeth o'r enw Prentisiaethau Sylfaen, Prentisiaethau neu Brentisiaethau Uwch.

(3) Yn yr erthygl hon ystyr “trefniadau Llywodraeth” yw trefniadau a wnaed o dan adran 2 o Ddeddf Cyflogaeth a Hyfforddiant 1973(2) neu o dan adran 17B o Ddeddf Ceiswyr Gwaith 1995(3).

(1) 2009 p. 22.

(2) 1973 p. 50. Diwygiwyd adran 2 gan adran 25 o Ddeddf Cyflogaeth 1988 (p. 19) ac adran 47 o Ddeddf Diwygio Undebau Llafur a Hawliau Cyflogaeth 1993 (p. 19). Trosglwyddwyd swyddogaethau perthnasol yr Ysgrifennydd Gwladol, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672). Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32), a pharagraffau 30 a 32 o Atodlen 11 iddi.

(3) 1995 p. 18. Diddymwyd adran 17B gan adran 147 o Ddeddf Diwygio Lles 2012 (p. 5) a Rhan 4 o Atodlen 14 iddi. Mae'r diddymiad yn effeithiol at ddibenion penodol yn unol ag O.S. 2013/983, O.S. 2013/1511, O.S. 2013/2657, O.S. 2013/2846, O.S. 2014/209, O.S. 2014/1583, O.S. 2014/2321, O.S. 2014/3094, O.S. 2015/33, O.S. 2015/101, O.S. 2015/634, O.S. 2015/1537, O.S. 2015/1930, O.S. 2016/33 ac O.S. 2016/407.

RHAN 3

Yr isafswm cyflog amaethyddol

Cyfraddau tâl isaf

12.—(1) Yn ddarostyngedig i weithrediad adran 1 o Ddeddf Isafswm Cyflog Cenedlaethol 1998⁽¹⁾, rhaid i weithwyr amaethyddol gael eu talu gan eu cyflogwr mewn cysylltiad â'u gwaith yn ôl cyfradd nad yw'n llai na'r isafswm cyflog amaethyddol.

(2) Yr isafswm cyflog amaethyddol yw'r gyfradd isaf fesul awr a bennir yn y Tabl yn Atodlen 4 fel y gyfradd sy'n gymwys i bob gradd o weithiwr amaethyddol ac i brentisiaid.

Cyfraddau tâl isaf am oramser

13. Rhaid i weithwyr amaethyddol gael eu talu gan eu cyflogwr mewn cysylltiad â goramser a weithir yn ôl cyfradd nad yw'n llai nag 1.5 gwaith yr isafswm cyflog amaethyddol a bennir yn erthygl 12 o'r Gorchymyn hwn ac Atodlen 4 iddo sy'n gymwys i'w radd neu i'w categori.

Cyfraddau tâl isaf am waith allbwn

14. Rhaid i weithwyr amaethyddol gael eu talu gan eu cyflogwr mewn cysylltiad â gwaith allbwn yn ôl cyfradd nad yw'n llai na'r isafswm cyflog amaethyddol a bennir yn erthygl 12 o'r Gorchymyn hwn ac Atodlen 4 iddo sy'n gymwys i'w radd neu i'w categori.

Lwfans gwrthbwysu llety

15.—(1) Pan fo cyflogwr, mewn unrhyw wythnos, yn darparu tŷ i weithiwr amaethyddol am y cyfan o'r wythnos honno, caiff y cyflogwr dynnu'r swm o £1.50 oddi ar isafswm cyflog y gweithiwr amaethyddol sy'n daladwy o dan erthygl 12 o'r Gorchymyn hwn ar gyfer yr wythnos honno.

(2) Yn ddarostyngedig i baragraffau (3) a (4), pan fo cyflogwr, mewn unrhyw wythnos, yn darparu llety arall i weithiwr amaethyddol, caiff y cyflogwr dynnu'r swm o £4.82 oddi ar isafswm cyflog y gweithiwr amaethyddol sy'n daladwy o dan erthygl 12 o'r Gorchymyn hwn am bob diwrnod yn yr wythnos y darperir y llety arall i'r gweithiwr.

(3) Dim ond pan fo'r gweithiwr amaethyddol wedi gweithio o leiaf 15 awr yn ystod yr wythnos honno y caniateir i'r didyniad ym mharagraff (2) gael ei wneud.

(1) 1998 p. 39.

(4) Rhaid i unrhyw amser yn ystod yr wythnos honno pan fo'r gweithiwr amaethyddol ar wyliau blynyddol neu absenoldeb oherwydd profedigaeth gyfrif tuag at y 15 awr hynny.

Taliadau nad ydynt yn ffurfio rhan o dâl gweithiwr amaethyddol

16. Nid yw'r lwfansau a'r taliadau a ganlyn yn ffurfio rhan o dâl gweithiwr amaethyddol—

- (a) lwfans cŵn o £8.02 y ci i'w dalu'n wythnosol pan fo'i gyflogwr yn ei gwneud yn ofynnol i weithiwr amaethyddol gadw un neu ragor o gŵn;
- (b) lwfans ar alwad o swm sy'n cyfateb i ddwy waith y gyfradd goramser fesul awr a nodir yn erthygl 13 o'r Gorchymyn hwn;
- (c) lwfans gwaith nos o £1.52 am bob awr o waith nos; a
- (d) grant geni a mabwysiadu o £63.09 am bob plentyn.

Costau hyfforddi

17.—(1) Pan fo gweithiwr amaethyddol yn mynd ar gwrs hyfforddi gyda chytundeb ei gyflogwr ymlaen llaw, rhaid i'r cyflogwr dalu—

- (a) unrhyw ffioedd am y cwrs; a
- (b) unrhyw gostau teithio a llety a ysgwyddir gan y gweithiwr amaethyddol wrth fynd ar y cwrs.

(2) Bernir bod gweithiwr amaethyddol sydd wedi ei gyflogi'n ddi-dor ar Radd 1 gan yr un cyflogwr am ddim llai na 30 wythnos wedi cael cymeradwyaeth ei gyflogwr i ymgymryd â hyfforddiant gyda golwg ar sicrhau'r cymwysterau angenrheidiol y mae'n ofynnol i weithiwr Radd 2 feddu arnynt.

(3) Y cyflogwr sydd i dalu am unrhyw hyfforddiant y mae gweithiwr amaethyddol yn ymgymryd ag ef yn unol â pharagraff (2).

RHAN 4

Yr hawl i gael tâl salwch amaethyddol

Yr hawl i gael tâl salwch amaethyddol

18. Yn ddarostyngedig i'r darpariaethau yn y Rhan hon, mae gan weithiwr amaethyddol hawl i gael tâl salwch amaethyddol gan ei gyflogwr mewn cysylltiad â'i absenoldeb salwch.

Amodau cymhwyso ar gyfer tâl salwch amaethyddol

19. Mae gweithiwr amaethyddol yn cymhwyso ar gyfer tâl salwch amaethyddol o dan y Gorchymyn hwn ar yr amod bod y gweithiwr amaethyddol—

- (a) wedi cael ei gyflogi'n barhaus gan ei gyflogwr am gyfnod o 52 o wythnosau o leiaf cyn yr absenoldeb salwch;
- (b) wedi hysbysu ei gyflogwr am yr absenoldeb salwch mewn ffordd a gytunwyd yn flaenorol gyda'i gyflogwr neu, yn niffyg unrhyw gytundeb o'r fath, drwy unrhyw ddull rhesymol;
- (c) mewn amgylchiadau pan fo'r absenoldeb salwch wedi parhau am gyfnod o 8 diwrnod yn olynol neu ragor, wedi darparu tystysgrif i'w gyflogwr gan ymarferwr meddygol cofrestredig sy'n datgelu'r diagnosis ynghylch anhwylder meddygol y gweithiwr ac sy'n datgan mai'r anhwylder sydd wedi achosi absenoldeb salwch y gweithiwr amaethyddol.

Cyfnodau absenoldeb salwch

20. Rhaid i unrhyw 2 gyfnod o salwch sydd â chyfnod o ddim mwy na 14 diwrnod rhyngddynt gael eu trin fel un cyfnod o absenoldeb salwch.

Cyfyngiadau ar yr hawl i dâl salwch amaethyddol

21.—(1) Ni fydd tâl salwch amaethyddol yn daladwy am y 3 diwrnod cyntaf o absenoldeb salwch o dan amgylchiadau pan fo hyd yr absenoldeb salwch yn llai na 14 diwrnod.

(2) Yn ystod pob cyfnod hawl, uchafswm nifer yr wythnosau y mae gan weithiwr amaethyddol hawl i gael tâl salwch amaethyddol ar eu cyfer yw—

- (a) 13 wythnos pan fo'r gweithiwr amaethyddol wedi ei gyflogi gan yr un cyflogwr am o leiaf 12 mis ond heb fod yn fwy na 24 mis;
- (b) 16 wythnos pan fo'r gweithiwr amaethyddol wedi ei gyflogi gan yr un cyflogwr am o leiaf 24 mis ond heb fod yn fwy na 36 mis;
- (c) 19 wythnos pan fo'r gweithiwr amaethyddol wedi ei gyflogi gan yr un cyflogwr am o leiaf 36 mis ond heb fod yn fwy na 48 mis;
- (d) 22 wythnos pan fo'r gweithiwr amaethyddol wedi ei gyflogi gan yr un cyflogwr am o leiaf 48 mis ond heb fod yn fwy na 59 mis;
- (e) 26 wythnos pan fo'r gweithiwr amaethyddol wedi ei gyflogi gan yr un cyflogwr am 59 mis neu fwy.

(3) Pan fo gweithiwr amaethyddol yn gweithio oriau sylfaenol neu unrhyw oramser gwarantedig, pan fo hynny'n berthnasol, ar nifer penodedig o ddiwrnodau bob wythnos, cyfrifir uchafswm nifer y diwrnodau o dâl salwch amaethyddol y mae gan y gweithiwr amaethyddol hawl i'w cael drwy luosi uchafswm nifer yr wythnosau sy'n berthnasol i'r gweithiwr amaethyddol â nifer y diwrnodau cymwys a weithiwyd bob wythnos.

(4) Pan fo gweithiwr amaethyddol yn gweithio oriau sylfaenol neu unrhyw oramser gwarantedig, pan fo hynny'n berthnasol, ar nifer amrywiol o ddiwrnodau bob wythnos, cyfrifir uchafswm nifer y diwrnodau o dâl salwch amaethyddol y mae gan y gweithiwr amaethyddol hawl i'w cael drwy luosi uchafswm nifer yr wythnosau sy'n berthnasol i'r gweithiwr hwnnw â nifer y diwrnodau perthnasol.

(5) Cyfrifir nifer y diwrnodau perthnasol drwy rannu nifer y diwrnodau cymwys a weithiwyd yn ystod cyfnod o 12 mis yn arwain at gyfnod yr absenoldeb salwch â 52.

(6) Mae uchafswm hawl gweithiwr amaethyddol i gael tâl salwch amaethyddol yn gymwys pa faint bynnag o gyfnodau o absenoldeb salwch a geir yn ystod unrhyw gyfnod hawl.

(7) Yn ddarostyngedig i baragraff (8), yn yr erthygl hon, "cyfnod hawl" yw cyfnod sy'n dechrau â chychwyn absenoldeb salwch ac sy'n dod i ben 12 mis yn ddiweddarach.

(8) Os yw'r gweithiwr amaethyddol yn cael cyfnod o absenoldeb salwch sy'n cychwyn unrhyw bryd yn ystod y cyfnod hawl a ddisgrifir ym mharagraff (7), ond sy'n parhau tu hwnt i ddiwedd y cyfnod hawl hwnnw, rhaid estyn y cyfnod hawl fel y bo'n dod i ben â pha un bynnag o'r canlynol sy'n digwydd gyntaf—

- (a) y dyddiad y mae absenoldeb salwch y gweithiwr amaethyddol yn dod i ben ac y mae'r gweithiwr amaethyddol yn dychwelyd i'r gwaith; neu
- (b) y diwrnod y mae'r gweithiwr amaethyddol yn cyrraedd uchafswm yr hawl i gael tâl salwch amaethyddol sy'n gymwys i'r cyfnod o 12 mis y cyfeirir ato ym mharagraff (7) (pe na bai hwnnw wedi ei estyn).

Pennu swm tâl salwch amaethyddol

22.—(1) Mae tâl salwch amaethyddol yn daladwy yn ôl cyfradd sy'n cyfateb i'r gyfradd tâl isaf fesul awr a ragnodir yn erthygl 12 o'r Gorchymyn hwn ac Atodlen 4 iddo fel y gyfradd sy'n gymwys i'r radd honno neu'r categori hwnnw o weithiwr amaethyddol.

(2) Pennir swm y tâl salwch amaethyddol sy'n daladwy i weithiwr amaethyddol drwy gyfrifo nifer yr

oriau contract dyddiol a fyddai wedi cael eu gweithio yn ystod cyfnod o absenoldeb salwch.

(3) Pennir nifer yr oriau contract dyddiol—

- (a) o dan amgylchiadau pan fo gweithiwr amaethyddol yn gweithio nifer penodedig o oriau bob wythnos dwy rannu cyfanswm nifer yr oriau a weithiwyd yn ystod unrhyw wythnos â nifer y diwrnodau a weithiwyd yn yr wythnos honno;
- (b) o dan amgylchiadau pan fo gweithiwr amaethyddol yn gweithio nifer amrywiol o oriau bob wythnos, drwy ddefnyddio'r fformwla—

$$\frac{QH}{8}$$

DWEW

pan fo, at ddibenion yr erthygl hon—

QH yn gyfanswm nifer yr oriau cymwys yn y cyfnod, a

DWEW yn nifer y diwrnodau a weithiwyd bob wythnos gan y gweithiwr amaethyddol o'u cymryd ar gyfartaledd yn ystod cyfnod o 8 wythnos yn union cyn i'r absenoldeb salwch gychwyn.

(4) Yn yr erthygl hon “oriau cymwys” yw oriau—

- (a) pan fu'r gweithiwr amaethyddol yn gweithio oriau sylfaenol neu oramser gwarantedig;
- (b) pan gymerodd y gweithiwr amaethyddol wyliau blynyddol neu absenoldeb oherwydd profedigaeth;
- (c) pan gafodd y gweithiwr amaethyddol absenoldeb salwch a oedd yn gymwys ar gyfer tâl salwch amaethyddol o dan y Gorchymyn hwn; neu
- (d) pan gafodd y gweithiwr amaethyddol absenoldeb salwch nad oedd yn gymwys ar gyfer tâl salwch amaethyddol o dan y Gorchymyn hwn; a

“diwrnodau cymwys” yw unrhyw ddiwrnodau o fewn y cyfnod y cafwyd ynddynt oriau cymwys mewn perthynas â'r gweithiwr amaethyddol.

(5) At ddibenion cyfrifiadau o dan yr erthygl hon, pan gyflogwyd gweithiwr amaethyddol gan ei gyflogwr am lai nag 8 wythnos, rhaid ystyried yr oriau cymwys a'r diwrnodau cymwys yn ystod y gwir nifer o wythnosau y cyflogwyd y gweithiwr amaethyddol gan ei gyflogwr.

Tâl salwch amaethyddol i gymryd tâl salwch statudol i ystyriaeth

23. Caniateir i swm sy'n hafal i unrhyw daliad tâl salwch statudol a wneir yn unol â Rhan XI o Ddeddf

Cyfraniadau a Budd-daliadau Nawdd Cymdeithasol 1992(1) mewn cysylltiad â chyfnod absenoldeb salwch gweithiwr amaethyddol gael ei dynnu oddi ar dâl salwch amaethyddol y gweithiwr hwnnw.

Talu tâl salwch amaethyddol

24. Rhaid i dâl salwch amaethyddol gael ei dalu i'r gweithiwr amaethyddol ar ei ddiwrnod cyflog arferol yn unol â naill ai ei gontract gwasanaeth neu ei brentisiaeth.

Cyflogaeth yn dod i ben yn ystod absenoldeb salwch

25.—(1) Yn ddarostyngedig i baragraff (2), os terfynir naill ai contract gwasanaeth gweithiwr amaethyddol neu ei brentisiaeth yn ystod cyfnod o absenoldeb salwch neu os rhoddir hysbysiad i'r gweithiwr amaethyddol fod naill ai ei gontract gwasanaeth neu ei brentisiaeth i gael eu terfynu, mae unrhyw hawl sydd gan y gweithiwr amaethyddol i gael tâl salwch amaethyddol yn parhau ar ôl i'r contract hwnnw ddod i ben fel pe bai'r gweithiwr amaethyddol yn dal yn cael ei gyflogi gan ei gyflogwr, hyd nes i un o'r canlynol ddigwydd—

- (a) bod absenoldeb salwch y gweithiwr amaethyddol yn dod i ben;
- (b) bod y gweithiwr amaethyddol yn dechrau gweithio i gyflogwr arall; neu
- (c) bod uchafswm yr hawl i gael tâl salwch amaethyddol yn unol ag erthygl 21 yn cael ei ddihysbyddu.

(2) Nid oes gan weithiwr amaethyddol y terfynwyd ei gontract hawl i gael unrhyw dâl salwch amaethyddol ar ôl diwedd ei gyflogaeth yn unol â pharagraff (1) os rhoddyd hysbysiad i'r gweithiwr amaethyddol fod ei gyflogwr yn bwriadu terfynu ei gontract gwasanaeth neu ei brentisiaeth cyn i'r cyfnod o absenoldeb salwch gychwyn.

Gordalu tâl salwch amaethyddol

26.—(1) Yn ddarostyngedig i ddarpariaethau paragraff (2), os caiff gweithiwr amaethyddol sydd â hawl i gael tâl salwch amaethyddol o dan y Rhan hon daliad am fwy o dâl salwch amaethyddol na'i hawl, gall ei gyflogwr adennill gordaliad y tâl salwch amaethyddol hwnnw drwy ei dynnu oddi ar gyflog y gweithiwr amaethyddol hwnnw.

(2) Os tynnir gordaliad tâl salwch amaethyddol o dan y Gorchymyn hwn fel y'i crybwyllir ym mharagraff (1), rhaid i'r cyflogwr beidio â thynnu

(1) 1992 p. 4.

mwy nag 20% o gyflog gros y gweithiwr amaethyddol oni bai bod hysbysiad wedi ei roi i derfynu'r gyflogaeth neu fod y gyflogaeth eisoes wedi ei therfynu pryd y caniateir i fwy nag 20% o gyflog gros y gweithiwr amaethyddol gael ei dynnu gan y cyflogwr oddi ar daliad cyflog olaf y gweithiwr.

Iawndal a adenillir yn sgil colli enillion

27.—(1) Mae'r erthygl hon yn gymwys i weithiwr amaethyddol y mae ei hawl i gael tâl salwch amaethyddol yn codi oherwydd gweithred neu anwaith person heblaw ei gyflogwr ac mae'r iawndal yn cael ei adennill gan y gweithiwr amaethyddol mewn cysylltiad â cholled enillion a ddiodefir yn ystod y cyfnod y cafodd y gweithiwr amaethyddol dâl salwch amaethyddol gan ei gyflogwr ar ei gyfer.

(2) Pan fo paragraff (1) yn gymwys—

- (a) rhaid i'r gweithiwr amaethyddol roi gwybod ar unwaith i'w gyflogwr am yr holl amgylchiadau perthnasol ac am unrhyw hawliad ac am unrhyw iawndal a adenillwyd o dan unrhyw gyfaddawd, setliad neu ddyfarniad;
- (b) rhaid i'r holl dâl salwch amaethyddol a dalwyd gan y cyflogwr i'r gweithiwr amaethyddol hwnnw mewn cysylltiad â'r absenoldeb salwch yr adenillir iawndal am golli enillion ar ei gyfer fod yn gyfystyr â benthyciad i'r gweithiwr; ac
- (c) rhaid i'r gweithiwr amaethyddol ad-dalu i'w gyflogwr swm nad yw'n fwy na'r lleiaf o'r canlynol—
 - (i) swm yr iawndal a adenillwyd am golli enillion yn y cyfnod y talwyd tâl salwch amaethyddol ar ei gyfer; a
 - (ii) y symiau a roddwyd i'r gweithiwr amaethyddol gan ei gyflogwr o dan y Rhan hon ar ffurf tâl salwch amaethyddol.

RHAN 5

Yr hawl i gael amser i ffwrdd

Seibiannau gorffwys

28.—(1) Mae gan weithiwr amaethyddol sy'n 18 oed neu'n hŷn ac sydd â'i amser gweithio dyddiol yn fwy na 5 awr a hanner hawl i gael seibiant gorffwys.

(2) Mae'r seibiant gorffwys y darperir ar ei gyfer ym mharagraff (1) yn gyfnod di-dor o ddim llai na 30 munud ac mae gan y gweithiwr amaethyddol hawl i'w

dreulio i ffwrdd o'i weithfan (os oes ganddo un) neu ei le gwaith arall.

(3) Yn ddarostyngedig i baragraff (4), nid yw'r darpariaethau ynglŷn â seibiannau gorffwys a bennir ym mharagraffau (1) a (2) yn gymwys i weithiwr amaethyddol—

- (a) pan nad yw cyfnod ei amser gweithio yn cael ei fesur neu ei bennu ymlaen llaw oherwydd nodweddion penodol y gweithgaredd y mae'r gweithiwr amaethyddol yn ei gyflawni;
- (b) pan fo gweithgareddau'r gweithiwr amaethyddol yn golygu bod angen parhad mewn gwasanaeth neu mewn cynhyrchu;
- (c) pan geir ymchwydd gweithgarwch rhagweladwy;
- (d) pan effeithir ar weithgareddau'r gweithiwr amaethyddol—
 - (i) gan ddigwyddiad oherwydd amgylchiadau anarferol nad ydynt yn rhagweladwy, y tu hwnt i reolaeth ei gyflogwr;
 - (ii) gan ddigwyddiadau eithriadol, nad oedd modd osgoi eu canlyniadau er i'r cyflogwr arfer pob gofal dyladwy; neu
 - (iii) gan ddamwain neu'r risg bod damwain ar fin digwydd; neu
- (e) pan fo'r cyflogwr a'r gweithiwr amaethyddol yn cytuno i addasu paragraffau (1) a (2) neu i'w hatal rhag bod yn gymwys yn y modd ac i'r graddau a ganiateir gan neu o dan Reoliadau Amser Gwaith 1998(1).

(4) Pan fo paragraff (3) yn gymwys a bod ei gyflogwr yn ei gwneud yn ofynnol i'r gweithiwr amaethyddol weithio yn unol â hynny yn ystod cyfnod a fyddai fel arall yn seibiant gorffwys—

- (a) rhaid i'r cyflogwr, oni bai bod is-baragraff (b) yn gymwys, ganiatáu i'r gweithiwr amaethyddol gymryd cyfnod cyfatebol o seibiant yn ei le; a
- (b) mewn achosion eithriadol pan nad yw, am resymau gwrthrychol, yn bosibl caniatáu cyfnod gorffwys o'r fath, rhaid i gyflogwr y gweithiwr amaethyddol gynnig iddo unrhyw amddiffyniad sy'n briodol i warchod iechyd a diogelwch y gweithiwr amaethyddol.

(1) O.S. 1998/1833.

Y flwyddyn gwyliau blynyddol

29. Y flwyddyn gwyliau blynyddol i bob gweithiwr amaethyddol yw'r cyfnod o 12 mis sy'n dechrau ar 1 Hydref ac sy'n dod i ben ar 30 Medi.

Swm gwyliau blynyddol gweithwyr amaethyddol a chanddynt ddiwrnodau gweithio penodedig a gyflogir drwy gydol y flwyddyn gwyliau

30.—(1) Mae gan weithiwr amaethyddol a gyflogir gan yr un cyflogwr drwy gydol y flwyddyn gwyliau blynyddol hawl i gael y swm gwyliau blynyddol a ragnodir yn y Tabl yn Atodlen 5.

(2) Pan fo gweithiwr amaethyddol yn gweithio ei oriau sylfaenol ac unrhyw oramser gwarantedig, pan fo hynny'n berthnasol, ar nifer penodedig o ddiwrnodau cymwys bob wythnos, nifer y diwrnodau a weithiwyd bob wythnos at ddibenion y Tabl yn Atodlen 5 yw'r nifer penodedig hwnnw o ddiwrnodau.

Swm gwyliau blynyddol gweithwyr amaethyddol a chanddynt ddiwrnodau gweithio amrywiol a gyflogir drwy gydol y flwyddyn gwyliau

31.—(1) Pan fo gweithiwr amaethyddol yn gweithio ei oriau sylfaenol ar nifer amrywiol o ddiwrnodau bob wythnos, cymerir mai nifer y diwrnodau a weithiwyd bob wythnos at ddibenion y Tabl yn Atodlen 5, yw cyfartaledd nifer y diwrnodau cymwys a weithiwyd bob wythnos yn ystod cyfnod o 12 wythnos yn union cyn i wyliau blynyddol y gweithiwr amaethyddol gychwyn a rhaid i'r nifer cyfartalog hwnnw o ddiwrnodau cymwys gael ei dalgrynnu i'r diwrnod cyfan agosaf, pan fo hynny'n briodol.

(2) Ar ddiwedd y flwyddyn gwyliau blynyddol rhaid i'r cyflogwr gyfrifo hawl wirioneddol y gweithiwr amaethyddol at ddibenion y Tabl yn Atodlen 5, ar sail nifer y diwrnodau cymwys a weithiwyd bob wythnos, wedi ei gymryd fel cyfartaledd nifer y diwrnodau cymwys a weithiwyd bob wythnos yn ystod y flwyddyn gwyliau blynyddol (h.y. dros gyfnod o 52 wythnos) a rhaid i nifer cyfartalog y diwrnodau cymwys gael ei dalgrynnu i'r diwrnod cyfan agosaf, pan fo hynny'n briodol.

(3) Os yw'r gweithiwr amaethyddol, ar ddiwedd y flwyddyn gwyliau blynyddol, wedi cronni hawl i wyliau ond heb eu cymryd, mae gan y gweithiwr amaethyddol hawl i ddwyn ymlaen unrhyw wyliau a gronnwyd ond nas cymerwyd i'r flwyddyn gwyliau blynyddol ganlynol yn unol ag erthygl 33(3) o'r Gorchymyn hwn neu caiff y gweithiwr amaethyddol a'r cyflogwr gytuno i daliad yn lle unrhyw wyliau a gronnwyd ond nas cymerwyd yn unol ag erthygl 36 o'r Gorchymyn hwn.

(4) Os yw'r gweithiwr amaethyddol, ar ddiwedd y flwyddyn gwyliau blynyddol, wedi cymryd mwy o ddiwrnodau gwyliau nag yr oedd ganddo hawl iddynt o dan y Gorchymyn hwn, ar sail nifer cyfartalog y diwrnodau cymwys a weithiwyd bob wythnos (wedi ei gyfrifo yn unol â pharagraff (2)), mae gan y cyflogwr hawl i ddiwynnu unrhyw dâl am ddiwrnodau gwyliau a gymerwyd uwchlaw hawl y gweithiwr amaethyddol neu, fel arall, ddiwynnu'r diwrnodau gwyliau a gymerwyd uwchlaw hawl y gweithiwr amaethyddol o'i hawl ar gyfer y flwyddyn gwyliau blynyddol ganlynol (ar yr amod nad yw didyniad o'r fath yn arwain at fod y gweithiwr amaethyddol yn cael llai na'i hawl gwyliau blynyddol statudol o dan reoliadau 13 a 13A o Reoliadau Amser Gwaith 1998).

Swm gwyliau blynyddol gweithwyr amaethyddol a gyflogir am ran o'r flwyddyn gwyliau

32.—(1) Mae gan weithiwr amaethyddol a gyflogir gan yr un cyflogwr am ran o'r flwyddyn gwyliau blynyddol hawl i gronni gwyliau blynyddol yn ôl cyfradd o 1/52 o'r hawl i gael gwyliau blynyddol a bennir yn y Tabl yn Atodlen 5 am bob wythnos orffenedig o wasanaeth gyda'r un cyflogwr.

(2) Pan fo swm y gwyliau blynyddol a gronnwyd mewn achos penodol yn cynnwys ffracsiwn o ddiwrnod heblaw hanner diwrnod, mae'r ffracsiwn hwnnw—

- (a) i'w dalgrynnu i lawr i'r diwrnod cyfan nesaf os yw'n llai na hanner diwrnod; a
- (b) i'w dalgrynnu i fyny i'r diwrnod cyfan nesaf os yw'n fwy na hanner diwrnod.

Amseru gwyliau blynyddol

33.—(1) Caiff gweithiwr amaethyddol gymryd gwyliau blynyddol y mae ganddo hawl i'w cymryd o dan y Gorchymyn hwn unrhyw bryd o fewn y flwyddyn gwyliau blynyddol yn ddarostyngedig i gymeradwyaeth ei gyflogwr.

(2) Nid oes gan weithiwr amaethyddol hawl i gario unrhyw hawl gwyliau blynyddol nas cymerwyd ymlaen o'r naill flwyddyn gwyliau i'r flwyddyn gwyliau nesaf heb gymeradwyaeth ei gyflogwr.

(3) Pan fo cyflogwr wedi cytuno y caiff gweithiwr amaethyddol gario unrhyw hawl gwyliau blynyddol nas defnyddiwyd ymlaen, dim ond yn ystod y flwyddyn gwyliau y mae'n cael ei gario ymlaen iddi y caniateir i'r balans gael ei gymryd.

(4) Yn ystod y cyfnod o 1 Hydref hyd at 31 Mawrth mewn unrhyw flwyddyn gwyliau blynyddol caiff cyflogwr ei gwneud yn ofynnol i weithiwr amaethyddol gymryd hyd at 2 wythnos o'i hawl gwyliau blynyddol o dan y Gorchymyn hwn a chaiff

gyfarwyddo i'r gweithiwr gymryd un o'r 2 wythnos hynny o wyliau blynyddol ar ddiwrnodau yn yr un wythnos.

(5) Yn ystod y cyfnod o 1 Ebrill hyd at 30 Medi mewn unrhyw flwyddyn gwyliau blynyddol, rhaid i gyflogwr ganiatáu i weithiwr amaethyddol gymryd 2 wythnos o hawl gwyliau blynyddol y gweithiwr o dan y Gorchymyn hwn mewn wythnosau olynol.

(6) At ddibenion yr erthygl hon, mae 1 wythnos o wyliau blynyddol gweithiwr amaethyddol yn cyfateb i nifer y diwrnodau a weithiwyd bob wythnos gan y gweithiwr amaethyddol fel y'i pennir yn unol ag erthyglau 30 a 31.

Tâl gwyliau

34.—(1) Mae gan weithiwr amaethyddol hawl i gael ei dalu mewn cysylltiad â phob diwrnod o wyliau blynyddol y mae'n ei gymryd.

(2) Mae swm y tâl gwyliau y mae gan weithiwr amaethyddol hawl i'w gael o dan baragraff (1) i'w bennu drwy rannu cyflog wythnosol y gweithiwr amaethyddol fel y'i pennir yn unol â pharagraff (3) neu, yn ôl y digwydd, paragraff (4), â nifer y diwrnodau cymwys a weithiwyd bob wythnos gan y gweithiwr amaethyddol hwnnw.

(3) Pan nad yw oriau gwaith arferol y gweithiwr amaethyddol o dan naill ai ei gontract gwasanaeth neu ei brentisiaeth yn amrywio (yn ddarostyngedig i baragraff (4)), swm cyflog wythnosol y gweithiwr amaethyddol at ddibenion paragraff (2) yw tâl wythnosol arferol y gweithiwr amaethyddol sy'n daladwy gan y cyflogwr.

(4) Pan fo oriau gwaith arferol y gweithiwr amaethyddol yn amrywio o wythnos i wythnos, neu pan fo gweithiwr amaethyddol sydd ag oriau gwaith arferol (fel ym mharagraff (3)) yn gweithio goramser yn ogystal â'r oriau hynny, cyfrifir swm tâl wythnosol arferol y gweithiwr amaethyddol at ddibenion paragraff (2) drwy adio swm tâl wythnosol arferol y gweithiwr amaethyddol ym mhob un o'r 12 wythnos yn union cyn cychwyn gwyliau blynyddol y gweithiwr a rhannu'r cyfanswm â 12.

(5) At ddibenion yr erthygl hon ystyr "tâl wythnosol arferol" yw—

- (a) tâl sylfaenol y gweithiwr amaethyddol o dan ei gontract gwasanaeth neu ei brentisiaeth; a
- (b) unrhyw dâl goramser ac unrhyw lwfans a delir yn gyson i'r gweithiwr amaethyddol.

(6) Pan fo gweithiwr amaethyddol wedi ei gyflogi gan ei gyflogwr am lai na 12 wythnos, rhaid ystyried wythnosau pan oedd tâl yn ddyledus i'r gweithiwr amaethyddol yn unig.

(7) At ddibenion paragraff (2), mae nifer y diwrnodau cymwys a weithiwyd yn cael ei bennu yn unol â'r darpariaethau yn erthyglau 30 a 31 o'r Gorchymyn hwn.

(8) Rhaid i unrhyw dâl sy'n ddyledus i weithiwr amaethyddol o dan yr erthygl hon gael ei dalu heb fod yn hwyrach na diwrnod gwaith olaf y gweithiwr amaethyddol cyn i'r cyfnod o wyliau blynyddol y mae'r taliad yn ymwneud ag ef gychwyn.

Gwyliau cyhoeddus a gwyliau banc

35.—(1) Mae'r erthygl hon yn gymwys pan fo gŵyl gyhoeddus neu ŵyl banc yng Nghymru yn syrthio ar ddiwrnod pan fo'n ofynnol fel arfer i weithiwr amaethyddol weithio o dan naill ai ei contract gwasanaeth neu ei brentisiaeth.

(2) Mae gan weithiwr amaethyddol y mae ei gyflogwr yn ei gwneud yn ofynnol iddo weithio ar yr ŵyl gyhoeddus neu'r ŵyl banc hawl i gael tâl nad yw'n llai na'r gyfradd goramser a bennir yn erthygl 13.

(3) Mae balans y gwyliau blynyddol sydd wedi eu cronni ar gyfer y flwyddyn gwyliau honno o dan y Gorchymyn hwn gan weithiwr amaethyddol nad yw ei gyflogwr yn ei gwneud yn ofynnol iddo weithio ar yr ŵyl gyhoeddus neu'r ŵyl banc i gael ei leihau o 1 diwrnod mewn cysylltiad â'r ŵyl gyhoeddus neu'r ŵyl banc nad yw'n ofynnol i'r gweithiwr amaethyddol weithio arni.

Taliad yn lle gwyliau blynyddol

36.—(1) Yn ddarostyngedig i'r amodau ym mharagraff (2), caiff gweithiwr amaethyddol a'i gyflogwr gytuno bod y gweithiwr amaethyddol i gael taliad yn lle diwrnod o hawl gwyliau blynyddol y gweithiwr amaethyddol.

(2) Yr amodau y cyfeirir atynt ym mharagraff (1) yw—

- (a) bod uchafswm nifer y diwrnodau y caiff gweithiwr amaethyddol gael taliad yn lle gwyliau blynyddol ar eu cyfer yn ystod unrhyw flwyddyn gwyliau blynyddol wedi ei ragnodi yn y Tabl yn Atodlen 6;
- (b) bod cofnod ysgrifenedig i'w gadw gan y cyflogwr ynglŷn ag unrhyw gytundeb y caiff gweithiwr amaethyddol daliad yn lle diwrnod o wyliau blynyddol am o leiaf 3 blynedd gan gychwyn ar ddiwedd y flwyddyn gwyliau honno;
- (c) o dan amgylchiadau pan nad yw'r gweithiwr amaethyddol yn gweithio ar ddiwrnod fel y cytunir yn unol â pharagraff (1), bod y diwrnod hwnnw i barhau'n rhan o hawl gwyliau blynyddol y gweithiwr amaethyddol;

- (d) bod taliad yn lle gwyliau blynyddol i'w dalu ar gyfradd sy'n cynnwys y gyfradd goramser a bennir yn erthygl 13 yn ogystal â thâl gwyliau a gyfrifir yn unol ag erthygl 34 fel pe bai'r diwrnod y gwneir taliad yn lle gwyliau blynyddol yn ddiwrnod y mae'r gweithiwr amaethyddol yn cymryd gwyliau blynyddol.

Talu tâl gwyliau wrth derfynu cyflogaeth

37.—(1) Pan derfynir cyflogaeth gweithiwr amaethyddol ac nad yw'r gweithiwr amaethyddol wedi cymryd yr holl hawl gwyliau blynyddol sydd wedi cronni iddo ar ddyddiad terfynu'r gyflogaeth, mae gan y gweithiwr amaethyddol hawl yn unol â pharagraff (2) i gael taliad yn lle'r gwyliau blynyddol a gronnwyd ond nas cymerwyd.

(2) Mae swm y taliad sydd i'w dalu i'r gweithiwr amaethyddol yn lle pob diwrnod o'i wyliau blynyddol a gronnwyd ond nas cymerwyd ar ddyddiad terfynu'r gyflogaeth i'w gyfrifo yn unol ag erthygl 34 fel pe bai dyddiad terfynu'r gyflogaeth yn ddiwrnod cyntaf cyfnod o wyliau blynyddol y gweithiwr amaethyddol.

Adennill tâl gwyliau

38.—(1) Os terfynir cyflogaeth gweithiwr amaethyddol cyn diwedd y flwyddyn gwyliau blynyddol a bod y gweithiwr amaethyddol wedi cymryd mwy o wyliau blynyddol nag yr oedd ganddo hawl i'w cael o dan ddarpariaethau'r Gorchymyn hwn neu fel arall, mae gan ei gyflogwr hawl i adennill swm y tâl gwyliau a dalwyd i'r gweithiwr amaethyddol mewn cysylltiad â gwyliau blynyddol a gymerwyd uwchlaw ei hawl.

(2) Pan fo gan gyflogwr hawl o dan baragraff (1) i adennill tâl gwyliau oddi ar weithiwr amaethyddol, caiff y cyflogwr wneud hynny drwy ei dynnu oddi ar daliad cyflog olaf y gweithiwr amaethyddol.

Absenoldeb oherwydd profedigaeth

39.—(1) Mae gan weithiwr amaethyddol hawl i gael absenoldeb oherwydd profedigaeth â thâl o dan amgylchiadau pan fo'r brofedigaeth yn ymwneud â pherson yng Nghategori A neu Gategori B.

(2) At ddibenion paragraff (1), personau yng Nghategori A yw—

- (a) rhiant i'r gweithiwr amaethyddol;
- (b) mab neu ferch i'r gweithiwr amaethyddol;
- (c) priod neu bartner sifil y gweithiwr amaethyddol; neu
- (d) rhywun y mae'r gweithiwr amaethyddol yn byw gydag ef fel gŵr a gwraig heb fod yn gyfreithiol briod neu rywun y mae'r

gweithiwr amaethyddol yn byw gydag ef fel pe baent mewn partneriaeth sifil.

(3) At ddibenion paragraff (1), personau yng Nghategori B yw—

- (a) brawd neu chwaer i'r gweithiwr amaethyddol;
- (b) nain neu daid i'r gweithiwr amaethyddol; neu
- (c) ŵyr neu wyres i'r gweithiwr amaethyddol.

(4) At ddibenion paragraff (1) mae absenoldeb oherwydd profedigaeth yn ychwanegol at unrhyw hawliau eraill i gael absenoldeb o dan y Gorchymyn hwn.

Pennu swm absenoldeb oherwydd profedigaeth

40.—(1) Swm yr absenoldeb oherwydd profedigaeth y mae gan weithiwr amaethyddol hawl i'w gael yn sgil marwolaeth person yng Nghategori A yw—

- (a) 4 diwrnod pan fo'r gweithiwr amaethyddol yn gweithio ei oriau sylfaenol ar 5 niwrnod neu fwy bob wythnos i'r un cyflogwr; neu
- (b) pan fo'r gweithiwr amaethyddol yn gweithio ei oriau sylfaenol ar 4 diwrnod yr wythnos neu lai i'r un cyflogwr, nifer y diwrnodau a gyfrifir yn unol â pharagraff (2).

(2) Yn ddarostyngedig i baragraff (6), mae swm hawl gweithiwr amaethyddol i gael absenoldeb oherwydd profedigaeth yn sgil marwolaeth person yng Nghategori A i'w gyfrifo yn ôl y fformwla a ganlyn—

$$\frac{\text{DWEW} \times 4}{5}$$

5

(3) Swm yr absenoldeb oherwydd profedigaeth y mae gan weithiwr amaethyddol hawl i'w gael yn sgil marwolaeth person yng Nghategori B yw—

- (a) 2 ddiwrnod pan fo'r gweithiwr amaethyddol yn gweithio ei oriau sylfaenol ar 5 niwrnod neu fwy bob wythnos i'r un cyflogwr; neu
- (b) pan fo'r gweithiwr amaethyddol yn gweithio ei oriau sylfaenol ar 4 diwrnod yr wythnos neu lai i'r un cyflogwr, nifer y diwrnodau a gyfrifir yn unol â pharagraff (4).

(4) Yn ddarostyngedig i baragraff (6), pan fo'r erthygl hon yn gymwys mae swm hawl gweithiwr amaethyddol i gael absenoldeb oherwydd profedigaeth yn sgil marwolaeth person yng Nghategori B i'w gyfrifo yn ôl y fformwla a ganlyn—

$$\frac{\text{DWEW} \times 2}{5}$$

5

(5) At ddibenion y fformwla ym mharagraffau (2) a (4), DWEW yw nifer y diwrnodau a weithiwyd bob wythnos gan y gweithiwr amaethyddol wedi ei gyfrifo yn unol ag erthygl 30 neu 31 (fel y bo'n briodol).

(6) Pan fo'r cyfrifiad ym mharagraff (2) neu (4) yn arwain at hawl i gael absenoldeb oherwydd profedigaeth o lai nag 1 diwrnod, mae'r hawl i'w thalgrynnu i fyny i un diwrnod cyfan.

(7) Mewn amgylchiadau pan fo mwy nag un gyflogaeth gan weithiwr amaethyddol (boed gyda'r un cyflogwr neu gyda chyflogwyr gwahanol), caniateir cymryd absenoldeb oherwydd profedigaeth â thâl mewn cysylltiad â mwy nag un gyflogaeth ond ni chaiff, mewn cysylltiad ag unrhyw un brofedigaeth, fod yn fwy nag uchafswm yr absenoldeb oherwydd profedigaeth a bennir ar gyfer un gyflogaeth yn yr erthygl hon.

Swm tâl absenoldeb oherwydd profedigaeth

41. Mae swm y tâl mewn cysylltiad ag absenoldeb oherwydd profedigaeth i'w bennu yn unol â'r darpariaethau yn erthygl 34 fel pe bai diwrnod cyntaf absenoldeb y gweithiwr amaethyddol oherwydd profedigaeth yn ddiwrnod cyntaf gwyliau blynyddol y gweithiwr hwnnw.

Absenoldeb di-dâl

42. Caiff gweithiwr amaethyddol gymryd cyfnod o absenoldeb di-dâl, gyda chydysyniad ei gyflogwr.

RHAN 6

Dirymu a darpariaeth drosiannol

Dirymu a darpariaeth drosiannol

43.—(1) Mae Gorchymyn Cyflogau Amaethyddol (Cymru) 2017⁽¹⁾ (“Gorchymyn 2017”) wedi ei ddirymu.

(2) Mae gweithiwr amaethyddol a gyflogir fel gweithiwr ar Radd neu fel prentis ond nid fel gweithiwr hyblyg, ac sy'n ddarostyngedig i'r telerau ac amodau a ragnodwyd yng Ngorchymyn 2017 neu unrhyw Orchmynion blaenorol, yn parhau i fod wedi ei gyflogi ar y Radd honno neu fel prentis ac mae, o'r dyddiad y daw'r Gorchymyn hwn i rym, yn ddarostyngedig i'r telerau ac amodau a ragnodir yn y Gorchymyn hwn.

(3) Yn yr erthygl hon ystyr “Gorchmynion blaenorol” yw Gorchymyn 2016, Gorchymyn Cyflogau Amaethyddol (Cymru a Lloegr) 2012 a phob

(1) O.S. 2017/1058 (Cy. 271).

gorchymyn a ddirymwyd gan erthygl 70 o'r
Gorchymyn hwnnw.

Lesley Griffiths

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a
Materion Gwledig, un o Weinidogion Cymru

27 Mawrth 2018

ATODLEN 1

Erthyglau 5 a 7

DYFARNIADAU A THYSTYSGRIFAU CYMHWYSEDD GWEITHWYR
GRADD 2

Tablau

Cod y Dyfarniad	Sefydliad Dyfarnu	Lefel	Teitl
600/7421/8	ABC	Lefel 1	Dyfarniad Lefel 1 mewn Sgiliau Cefn Gwlad Ymarferol
600/7388/3	ABC	Lefel 1	Dyfarniad Lefel 1 mewn Sgiliau Garddwriaeth Ymarferol
600/7423/1	ABC	Lefel 1	Tystysgrif Lefel 1 mewn Sgiliau Cefn Gwlad Ymarferol
600/7389/5	ABC	Lefel 1	Tystysgrif Lefel 1 mewn Sgiliau Garddwriaeth Ymarferol
600/7424/3	ABC	Lefel 1	Diploma Lefel 1 mewn Sgiliau Cefn Gwlad Ymarferol
500/9700/3	ABC	Lefel 1	Dyfarniad Lefel 1 mewn Sgiliau Cefn Gwlad Ymarferol
500/9854/8	ABC	Lefel 1	Dyfarniad Lefel 1 mewn Sgiliau Garddwriaeth Ymarferol
600/5890/0	NOCN	Lefel 1	Dyfarniad Lefel 1 mewn Garddwriaeth
600/5891/2	NOCN	Lefel 1	Tystysgrif Lefel 1 mewn Garddwriaeth
601/0156/8	NOCN	Lefel 1	Dyfarniad Lefel 1 mewn Astudiaethau Galwedigaethol (Garddwriaeth)
601/0157/X	NOCN	Lefel 1	Tystysgrif Lefel 1 mewn Astudiaethau Galwedigaethol (Garddwriaeth)
500/6256/6	City & Guilds	Lefel 1	Dyfarniad Lefel 1 yn Astudiaethau'r Tir
500/6713/8	City & Guilds	Lefel 1	Dyfarniad Lefel 1 mewn Amaethyddiaeth Seiliedig ar Waith
500/6708/4	City & Guilds	Lefel 1	Dyfarniad Lefel 1 mewn Garddwriaeth Seiliedig ar Waith
500/6712/6	City & Guilds	Lefel 1	Dyfarniad Lefel 1 mewn Gweithrediadau ar y Tir Seiliedig ar Waith
500/6257/8	City & Guilds	Lefel 1	Tystysgrif Lefel 1 yn Astudiaethau'r Tir
500/6752/7	City & Guilds	Lefel 1	Tystysgrif Lefel 1 mewn Amaethyddiaeth Seiliedig ar Waith
500/6659/6	City & Guilds	Lefel 1	Tystysgrif Lefel 1 mewn Garddwriaeth Seiliedig ar Waith
500/6660/2	City & Guilds	Lefel 1	Tystysgrif Lefel 1 mewn Gweithrediadau ar y Tir Seiliedig ar Waith
500/6268/2	City & Guilds	Lefel 1	Diploma Lefel 1 yn Astudiaethau'r Tir
500/6761/8	City & Guilds	Lefel 1	Diploma Lefel 1 mewn Amaethyddiaeth Seiliedig ar Waith

500/6709/6	City & Guilds	Lefel 1	Diploma Lefel 1 mewn Garddwriaeth Seiliedig ar Waith
500/6711/4	City & Guilds	Lefel 1	Diploma Lefel 1 mewn Gweithrediadau ar y Tir Seiliedig ar Waith
600/5587/X	City & Guilds	Lefel 1	Dyfarniad Lefel 1 mewn Sgiliau Garddwriaeth Ymarferol
600/5611/3	City & Guilds	Lefel 1	Tystysgrif Lefel 1 mewn Sgiliau Garddwriaeth Ymarferol
600/5612/5	City & Guilds	Lefel 1	Diploma Lefel 1 mewn Sgiliau Garddwriaeth Ymarferol
500/9128/1	RHS	Lefel 1	Dyfarniad Lefel 1 mewn Garddwriaeth Ymarferol
601/0613/X	RHS	Lefel 1	Dyfarniad Rhagarweiniol Lefel 1 mewn Garddwriaeth Ymarferol
601/0554/9	RHS	Lefel 2	Tystysgrif Lefel 2 mewn Egwyddorion Tyfu, Lluosogi a Datblygu Planhigion
601/0355/3	RHS	Lefel 2	Tystysgrif Lefel 2 mewn Egwyddorion Garddwriaeth
500/9635/7	ABC	Lefel 2	Dyfarniad Lefel 2 mewn Sgiliau Garddwriaeth Ymarferol
501/1411/6	ABC	Lefel 2	Tystysgrif Lefel 2 mewn Coedyddiaeth
500/9633/3	ABC	Lefel 2	Tystysgrif Lefel 2 mewn Sgiliau Garddwriaeth Ymarferol
603/0159/4	NOCN	Lefel 2	Dyfarniad Lefel 2 i'r Gweithiwr Diogel
500/7689/9	City & Guilds	Lefel 2	Dyfarniad Lefel 2 mewn Gweithio'n Ddiogel mewn Amaethyddiaeth a Garddwriaeth Gynhyrchu
500/6938/X	City & Guilds	Lefel 2	Dyfarniad Lefel 2 mewn Amaethyddiaeth Seiliedig ar Waith
500/6871/9	City & Guilds	Lefel 2	Dyfarniad Lefel 2 mewn Garddwriaeth Seiliedig ar Waith
500/8584/0	City & Guilds	Lefel 2	Tystysgrif Lefel 2 mewn Amaethyddiaeth
500/8552/9	City & Guilds	Lefel 2	Tystysgrif Lefel 2 mewn Coedwigaeth a Choedyddiaeth
500/8577/3	City & Guilds	Lefel 2	Tystysgrif Lefel 2 mewn Garddwriaeth
500/0677/6	City & Guilds	Lefel 2	Tystysgrif Lefel 2 mewn Technoleg sy'n ymwneud â'r Tir
500/6939/1	City & Guilds	Lefel 2	Tystysgrif Lefel 2 mewn Amaethyddiaeth Seiliedig ar Waith
500/6816/7	City & Guilds	Lefel 2	Tystysgrif Lefel 2 mewn Garddwriaeth Seiliedig ar Waith
500/8590/6	City & Guilds	Lefel 2	Tystysgrif Estynedig Lefel 2 mewn Amaethyddiaeth
500/8587/6	City & Guilds	Lefel 2	Tystysgrif Estynedig Lefel 2 mewn Coedwigaeth a Choedyddiaeth
500/8582/7	City & Guilds	Lefel 2	Tystysgrif Estynedig Lefel 2 mewn Garddwriaeth
501/0683/1	City & Guilds	Lefel 2	Tystysgrif Estynedig Lefel 2 mewn Technoleg

			sy'n ymwneud â'r Tir
600/4671/5	City & Guilds	Lefel 2	Dyfarniad Lefel 2 mewn Gyrru Tractor Amaethyddol a Gweithrediadau Perthynol
600/4883/9	City & Guilds	Lefel 2	Dyfarniad Lefel 2 mewn Gyrru Tractor Cryno a Gweithrediadau Perthynol
600/4957/1	City & Guilds	Lefel 2	Dyfarniad Lefel 2 mewn Trin Cerbydau Pob Tir i'w Reidio ag Un Goes Bob Ochr
600/4689/2	City & Guilds	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Beiriannau Torri Gwair a Reolir gan Bobl ar Droed
600/4690/9	City & Guilds	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Beiriannau Torri Gwair Hunanyredig i'w Reidio
600/4670/3	City & Guilds	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Beiriannau Torri Gwair a Osodir ar Dractor
500/7693/0	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Cynnal a Chadw Peiriannau Amaethyddiaeth
500/7697/8	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Hwsmonaeth a Lles Sylfaenol
600/6303/8	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Tynnu Canghennau a Chwalu Corunau gan Ddefnyddio Llif Gadwyn
600/6160/1	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Cynnal a Chadw Llif Gadwyn
600/6161/3	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Cynnal a Chadw Llif Gadwyn a Thrawslifio
600/6428/6	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Trawslifio Coed gan Ddefnyddio Llif Gadwyn
600/6162/5	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Cwmpo a Phrosesu Coed hyd at 380mm
600/6619/2	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Defnyddio Llif Gadwyn ar y Tir
500/7889/6	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Gyrru oddi ar y Ffordd
600/6417/1	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Dociwr Polyn â Modur
600/6435/3	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Cynorthwyo Cydweithwyr heb fod â'u Traed ar y Ddaear sy'n Gwneud Gwaith mewn perthynas â Choed
600/0803/9	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Cludo Anifeiliaid dros Bellter Hir ar y Ffordd – Cynorthwydd
600/0307/8	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Cludo Anifeiliaid dros Bellter Hir ar y Ffordd – Gyrrwr
601/5141/9	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid gan Ddefnyddio Chwistrellwyr Bwm Llorweddol Hunanyredig, Mowntiedig, Llusg
601/5142/0	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid gan Ddefnyddio Chwistrellwyr Bwm Geometreg Cyfnewidiol neu Wasgaru

601/5143/2	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid Pelennog neu Ronynnog gan Ddefnyddio Taenwyr Mowntiedig neu Lusk
601/5144/4	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid gan Ddefnyddio Offer wedi ei Fowntio ar Gwch
601/5145/6	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid gan Ddefnyddio Offer Llaw ar gyfer Cerddwyr
601/5146/8	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid o'r Awyr
601/5147/X	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Cymysgu a Throsglwyddo Plaleiddiaid yn Ddiogel
601/5148/1	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid ar ffurf Tarthau, Niwloedd a Mygau
601/5149/3	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Dipio Deunydd Planhigion mewn Plaleiddiaid yn Ddiogel
601/5150/X	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Trin Hadau â Phlaleiddiaid yn Ddiogel
601/5151/1	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid i Ddeunydd Planhigion yn ystod Proses Llif Parhaus
601/5153/3	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Defnyddio Hylifau Plaleiddiaid o dan yr Wyneb yn Ddiogel
601/5153/5	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid gan Ddefnyddio Offer Arbenigol
500/7692/9	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Ddip Defaid
601/8781/5	City & Guilds NPTC	Lefel 2	Tystysgrif Cymhwysedd Lefel 2 yn y Defnydd Diogel a Chyfrifol o Feddyginiaethau Milfeddygol
600/0306/6	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Cludo Anifeiliaid ar y Ffordd (Siwrneiau Byr)
600/6620/9	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 mewn Dringo Coed ac Achub
100/2000/7	City & Guilds NPTC	Lefel 2	Tystysgrif Cymhwysedd Lefel 2 yn y Defnydd Diogel o Lorri Ddadlwytho
100/2001/9	City & Guilds NPTC	Lefel 2	Tystysgrif Cymhwysedd Lefel 2 yn y Defnydd Diogel o Beiriannau Olwyn Garw
100/2103/5	City & Guilds NPTC	Lefel 2	Tystysgrif Cymhwysedd Lefel 2 yn y Defnydd Diogel o Beiriannau Offer
100/1733/1	City & Guilds NPTC	Lefel 2	Tystysgrif Cymhwysedd Lefel 2 yn y Defnydd Diogel o Gyfarpar Cynnal Glaswellt
601/2259/6	City & Guilds NPTC	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Ffosffid Alwminiwm i Reoli Plâu Fertebraidd
600/6453/5	IMIAL	Lefel 2	Tystysgrif Lefel 2 mewn Technoleg sy'n ymwneud â'r Tir
600/6774/3	IMIAL	Lefel 2	Tystysgrif Estynedig Lefel 2 mewn Technoleg

			sy'n ymwneud â'r Tir
501/1740/3	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Cludo Anifeiliaid ar y Ffordd – Cynorthwydd Siwrnai Hir
501/1739/7	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Cludo Anifeiliaid ar y Ffordd – Gyrrwr Siwrnai Hir
501/1738/5	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Cludo Anifeiliaid ar y Ffordd – Siwrnai Fer
600/5699/X	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Cynnal a Chadw Llif Gadwyn
600/5701/4	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Cynnal a Chadw Llif Gadwyn a Thrawslifio
600/5700/2	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Trawslifio Coed gan Ddefnyddio Llif Gadwyn
600/5703/8	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Cwmpo a Phrosesu Coed hyd at 380mm
600/5717/8	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Tynnu Canghennau a Malu Corunau gan Ddefnyddio Llif Gadwyn (QCF)
500/7449/0	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Gweithio'n Ddiogel mewn Amaethyddiaeth a Garddwriaeth Gynhyrchu
600/5709/9	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Cynorthwyo Cydweithwyr heb fod â'u Traed ar y Ddaear sy'n Gwneud Gwaith mewn perthynas â Choed
600/8391/8	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Alwminiwm Ffosffid ar gyfer Plâu Fertebraidd
600/5708/7	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Defnyddio Tociwr Polyn â Modur
600/6729/9	Lantra Awards	Lefel 2	Tystysgrif Lefel 2 mewn Gweithgareddau ar y Tir
601/5977/7	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Blaleiddiaid
601/6562/5	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Taenu Plaleiddiaid yn Ddiogel gan Ddefnyddio Offer Llaw (QCF)
601/6562/5X	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Taenu Plaleiddiaid yn Ddiogel gan Ddefnyddio Offer Llaw (QCF) (heb Ddefnydd Diogel)
601/6565/0	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Taenu Plaleiddiaid yn Ddiogel gan Ddefnyddio Offer Gronynnog (QCF)
601/6565/0X	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Taenu Plaleiddiaid yn Ddiogel gan Ddefnyddio Offer Gronynnog (QCF) (heb Ddefnydd Diogel)
601/6563/7	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Taenu Plaleiddiaid yn Ddiogel gan Ddefnyddio Chwistrellwyr Bwm wedi eu Mowntio ar Gerbyd (QCF)
601/6563/7X	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 mewn Taenu Plaleiddiaid yn Ddiogel gan Ddefnyddio Bwm wedi ei Fowntio ar Gerbyd

600/8391/8	Lantra Awards	Lefel 2	Dyfarniad Lefel 2 yn y Defnydd Diogel o Alwminiwm Ffosffid i Reoli Plâu Fertebraidd (QCF)
500/9933/4	Pearson BTEC	Lefel 2	Tystysgrif Lefel 2 mewn Amaethyddiaeth
500/9932/2	Pearson BTEC	Lefel 2	Tystysgrif Estynedig Lefel 2 mewn Amaethyddiaeth
501/0122/5	Pearson BTEC	Lefel 2	Tystysgrif Estynedig Lefel 2 mewn Garddwriaeth
600/4507/3	Pearson Edexcel	Lefel 2	Tystysgrif Lefel 2 mewn Garddwriaeth Seiliedig ar Waith
501/0207/2	RHS	Lefel 2	Tystysgrif Lefel 2 mewn Garddwriaeth Ymarferol
500/8295/4	RHS	Lefel 2	Tystysgrif Lefel 2 mewn Egwyddorion Cynllunio, Sefydlu a Chadw Gardd

Cymhwysedd (Rhifau)	Teitl
CU 5.2. (T5021690)	Sefydlu a chynnal perthynas waith effeithiol ag eraill (Lefel 2)
CU 9.2. (J5021449)	Cynllunio a chynnal cyflenwadau adnoddau ffisegol yn y lle gweithio (Lefel 3)

ATODLEN 2 Erthygl 6

DYFARNIADAU A THYSTYSGRIFAU CYMHWYSEDD GWEITHWYR
GRADD 3

Tablau

Cod y Dyfarniad	Sefydliad Dyfarnu	Lefel	Teitl
500/8575/X	City & Guilds	Lefel 2	Diploma mewn Amaethyddiaeth
500/8718/6	City & Guilds	Lefel 2	Diploma mewn Coedwigaeth a Choedyddiaeth
500/8576/1	City & Guilds	Lefel 2	Diploma mewn Garddwriaeth
501/0678/8	City & Guilds	Lefel 2	Diploma mewn Technoleg sy'n ymwneud â'r Tir
500/6231/1	City & Guilds	Lefel 2	Diploma mewn Amaethyddiaeth Seiliedig ar Waith
500/6205/0	City & Guilds	Lefel 2	Diploma mewn Garddwriaeth Seiliedig ar Waith
501/0302/7	City & Guilds	Lefel 2	Diploma mewn Gweithrediadau Peirianeg sy'n ymwneud â'r Tir Seiliedig ar Waith
600/7616/1	City & Guilds	Lefel 2	Diploma mewn Coed a Phren
601/2331/X	HABC	Lefel 2	Diploma mewn Garddwriaeth Seiliedig ar Waith
600/6775/5	IMIAL	Lefel 2	Diploma mewn Technoleg sy'n ymwneud â'r Tir
601/0608/6	IMIAL	Lefel 2	Diploma mewn Cyfarpar â Modur ar gyfer Gweithrediadau Peirianeg sy'n ymwneud â'r Tir Seiliedig ar Waith
600/5109/7	IMIAL	Lefel 2	Diploma mewn Gweithrediadau Peirianeg sy'n ymwneud â'r Tir Seiliedig ar Waith
500/9547/X	Pearson BTEC	Lefel 2	Diploma mewn Amaethyddiaeth
500/9934/6	Pearson BTEC	Lefel 2	Diploma mewn Garddwriaeth
600/3577/8	Pearson Edexcel	Lefel 2	Diploma mewn Gweithrediadau Peirianeg sy'n ymwneud â'r Tir Seiliedig ar Waith
601/0356/5	RHS	Lefel 2	Diploma mewn Egwyddorion ac

			Arferion Garddwriaeth
Cymhwysedd (Rhifau)	Teitl		
CU 5.2. (T5021690)	Sefydlu a chynnal perthynas waith effeithiol ag eraill (Lefel 2)		
CU 9.2. (J5021449)	Cynllunio a chynnal cyflenwadau adnoddau ffisegol yn y lle gweithio (Lefel 3)		

ATODLEN 3 Erthygl 7

DYFARNIADAU A THYSTYSGRIFAU CYMHWYSEDD GWEITHWYR
GRADD 4

Tablau

Cod y Dyfarniad	Sefydliad Dyfarnu	Lefel	Teitl
500/8487/2	City & Guilds	Lefel 3	Diploma mewn Amaethyddiaeth
500/8564/5	City & Guilds	Lefel 3	Diploma mewn Coedwigaeth a Choedyddiaeth
500/8384/3	City & Guilds	Lefel 3	Diploma mewn Garddwriaeth
501/0681/8	City & Guilds	Lefel 3	Diploma mewn Technoleg sy'n ymwneud â'r Tir
500/6224/4	City & Guilds	Lefel 3	Diploma mewn Amaethyddiaeth Seiliedig ar Waith
500/6255/4	City & Guilds	Lefel 3	Diploma mewn Garddwriaeth Seiliedig ar Waith
501/0399/4	City & Guilds	Lefel 3	Diploma mewn Gweithrediadau Peirianeg sy'n ymwneud â'r Tir Seiliedig ar Waith
500/8490/2	City & Guilds	Lefel 3	Diploma Estynedig mewn Amaethyddiaeth
500/8720/4	City & Guilds	Lefel 3	Diploma Estynedig mewn Coedwigaeth a Choedyddiaeth
500/8401/X	City & Guilds	Lefel 3	Diploma Estynedig mewn Garddwriaeth
501/0682/X	City & Guilds	Lefel 3	Diploma Estynedig mewn Technoleg sy'n ymwneud â'r Tir
500/8388/0	City & Guilds	Lefel 3	Diploma Atodol mewn Amaethyddiaeth
500/8724/1	City & Guilds	Lefel 3	Diploma Atodol mewn Coedwigaeth a Choedyddiaeth
500/8385/5	City & Guilds	Lefel 3	Diploma Atodol mewn Garddwriaeth
501/0694/6	City & Guilds	Lefel 3	Diploma Atodol mewn Technoleg sy'n ymwneud â'r Tir
600/6048/7	City & Guilds	Lefel 3	Diploma 90-Credyd mewn Amaethyddiaeth

600/5946/1	City & Guilds	Lefel 3	Diploma 90-Credyd mewn Coedwigaeth a Choedyddiaeth
600/6115/7	City & Guilds	Lefel 3	Diploma 90-Credyd mewn Garddwriaeth
600/5945/X	City & Guilds	Lefel 3	Diploma 90-Credyd mewn Technoleg sy'n ymwneud â'r Tir
601/7448/1	City & Guilds	Lefel 3	Tystysgrif Dechnegol Uwch Lefel 3 mewn Amaethyddiaeth
601/7452/3	City & Guilds	Lefel 3	Diploma Dechnegol Uwch Lefel 3 mewn Amaethyddiaeth (540)
601/7451/1	City & Guilds	Lefel 3	Diploma Estynedig Dechnegol Uwch Lefel 3 mewn Amaethyddiaeth (720)
601/7459/6	City & Guilds	Lefel 3	Diploma Estynedig Dechnegol Uwch Lefel 3 mewn Amaethyddiaeth (1080)
601/7507/2	City & Guilds	Lefel 3	Tystysgrif Dechnegol Uwch Lefel 3 mewn Coedwigaeth a Choedyddiaeth
601/7517/5	City & Guilds	Lefel 3	Diploma Estynedig Dechnegol Uwch Lefel 3 mewn Coedwigaeth a Choedyddiaeth (1080)
601/7453/5	City & Guilds	Lefel 3	Tystysgrif Dechnegol Uwch Lefel 3 mewn Garddwriaeth
601/7456/0	City & Guilds	Lefel 3	Diploma Dechnegol Uwch Lefel 3 mewn Garddwriaeth (540)
601/7455/9	City & Guilds	Lefel 3	Diploma Estynedig Dechnegol Uwch Lefel 3 mewn Garddwriaeth (720)
601/7454/7	City & Guilds	Lefel 3	Diploma Estynedig Dechnegol Uwch Lefel 3 mewn Garddwriaeth (1080)
601/7463/8	City & Guilds	Lefel 3	Diploma Estynedig Dechnegol Uwch Lefel 3 mewn Peirianneg sy'n ymwneud â'r Tir (1080)
600/6970/3	City & Guilds	Lefel 3	Diploma mewn Coed a Phren Seiliedig ar Waith
600/7794/3	IMIAL	Lefel 3	Diploma mewn Technoleg sy'n ymwneud â'r Tir
600/7796/7	IMIAL	Lefel 3	Diploma Estynedig mewn Technoleg sy'n ymwneud â'r Tir
600/7795/5	IMIAL	Lefel 3	Diploma Atodol mewn Technoleg sy'n ymwneud â'r Tir
600/5128/0	IMIAL	Lefel 3	Diploma mewn Peirianneg sy'n ymwneud â'r Tir Seiliedig ar Waith

500/8240/1	Pearson BTEC	Lefel 3	Diploma mewn Amaethyddiaeth
500/9449/X	Pearson BTEC	Lefel 3	Diploma mewn Coedwigaeth a Choedyddiaeth
500/8336/3	Pearson BTEC	Lefel 3	Diploma mewn Garddwriaeth
500/8301/6	Pearson BTEC	Lefel 3	Diploma Estynedig mewn Amaethyddiaeth
500/9448/8	Pearson BTEC	Lefel 3	Diploma Estynedig mewn Coedwigaeth a Choedyddiaeth
500/8266/8	Pearson BTEC	Lefel 3	Diploma Estynedig mewn Garddwriaeth
500/8242/5	Pearson BTEC	Lefel 3	Diploma Atodol mewn Amaethyddiaeth
500/9451/8	Pearson BTEC	Lefel 3	Diploma Atodol mewn Coedwigaeth a Choedyddiaeth
500/8351/X	Pearson BTEC	Lefel 3	Diploma Atodol mewn Garddwriaeth
600/3550/X	Pearson Edexcel	Lefel 3	Diploma mewn Peirianeg sy'n ymwneud â'r Tir Seiliedig ar Waith
601/7189/3	RHS	Lefel 3	Diploma mewn Egwyddorion ac Arferion Garddwriaeth
601/8097/3	RHS	Lefel 3	Diploma mewn Arferion Garddwriaeth
600/2788/5	City & Guilds	Lefel 4	Tystysgrif mewn Rheolaeth Amaethyddol Seiliedig ar Waith
600/2842/7	City & Guilds	Lefel 4	Diploma mewn Rheoli Busnes Amaethyddol Seiliedig ar Waith
600/2132/9	Pearson BTEC	Lefel 4	Diploma HNC mewn Garddwriaeth
601/5485/8	Agored Cymru	Lefel 4	Tystysgrif mewn Garddwriaeth Seiliedig ar Waith
601/5484/6	Agored Cymru	Lefel 4	Diploma mewn Garddwriaeth Seiliedig ar Waith
603/0320/7	RHS	Lefel 4	Diploma mewn Arferion Garddwriaeth

Cymhwysedd (Rhifau)	Teitl
CU 5.2. (T5021690)	Sefydlu a chynnal perthynas waith effeithiol ag eraill (Lefel 2)
CU 9.2. (J5021449)	Cynllunio a chynnal cyflenwadau adnoddau ffisegol yn y lle gweithio (Lefel 3)

ATODLEN 4
CYFRADDAU TÂL ISAF

Erthygl 12

Tabl

Gradd neu gategori'r gweithiwr	Cyfradd tâl isaf fesul awr
Gweithiwr Gradd 1 o dan oedran ysgol gorfodol	£3.47
Gweithiwr Gradd 1 (16-24 oed)	£7.38
Gweithiwr Gradd 1 (25+ oed)	£7.83
Gweithiwr Gradd 2	£8.29
Gweithiwr Gradd 3	£8.54
Gweithiwr Gradd 4	£9.16
Gweithiwr Gradd 5	£9.70
Gweithiwr Gradd 6	£10.48
Prentis Blwyddyn 1	£3.93
Prentis Blwyddyn 2 (16-17 oed)	£4.21
Prentis Blwyddyn 2 (18-20 oed)	£5.90
Prentis Blwyddyn 2 (21-24 oed)	£7.38
Prentis Blwyddyn 2 (25+ oed)	£8.05

ATODLEN 5
HAWLIAU GWYLIAU BLYNYDDOL

Erthyglau 30 a 31

Tabl

Nifer y diwrnodau a weithir bob wythnos gan weithiwr amaethyddol	Mwy na 6	Mwy na 5 ond heb fod yn fwy na 6	Mwy na 4 ond heb fod yn fwy na 5	Mwy na 3 ond heb fod yn fwy na 4	Mwy na 2 ond heb fod yn fwy na 3	Mwy nag 1 ond heb fod yn fwy na 2	1 neu lai
Hawliau gwyliau blynyddol (diwrnodau)	38	35	31	25	20	13	7.5

ATODLEN 6 Erthygl 36

TALIAD YN LLE GWYLIAU BLYNYDDOL

Tabl

Uchafswm nifer y diwrnodau gwyliau blynyddol y caniateir taliad yn eu lle							
Diwrnodau a weithir bob wythnos	Mwy na 6	Mwy na 5 ond heb fod yn fwy na 6	Mwy na 4 ond heb fod yn fwy na 5	Mwy na 3 ond heb fod yn fwy na 4	Mwy na 2 ond heb fod yn fwy na 3	Mwy nag 1 ond heb fod yn fwy na 2	1 neu lai
Uchafswm nifer y diwrnodau gwyliau blynyddol o dan y Gorchymyn hwn y caniateir taliad yn eu lle	10	7	3	2.5	2.5	1.5	1.5

Explanatory Memorandum to the Agricultural Wages (Wales) Order 2018

This Explanatory Memorandum has been prepared by the Department for Energy, Planning and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Agricultural Wages (Wales) Order 2018. I am satisfied the benefits justify the likely costs.

Lesley Griffiths AM
Cabinet Secretary for the Energy, Planning and Rural Affairs

29 March 2018

1 Description

The Agricultural Wages (Wales) Order 2018 (“the 2018 Order”) makes provision about the minimum rates of remuneration and other terms and conditions of employment for agricultural workers. The 2018 Order revokes and replaces the Agricultural Wages (Wales) Order 2017 (“the 2017 Order”) with changes which increase the 2017 pay levels for agricultural workers.

The Agricultural Advisory Panel for Wales (the Panel) is an independent advisory body which was established under Section 2 (1) of the Agricultural Sector (Wales) Act 2014 (the 2014 Act) by the Agricultural Advisory Panel for Wales (Establishment) Order 2016 (the Panel Order) on 1 April 2016.

The Panel Order sets the number of Panel members at seven; two representatives from UNITE the Union, one representative from the Farmers’ Union of Wales, one representative from National Farmers Union Cymru and three independent members, including an independent Chair. The independent members and Chair are selected via the Public Appointment process.

Article 3(2) of the Panel Order sets out the Panel’s functions. One of the key functions of the Panel is to review agricultural wages and prepare agricultural wages orders in draft, to consult upon them and subsequently submit them to the Welsh Ministers for approval. In accordance with Section 4(1) of the 2014 Act, the Welsh Ministers have the power to a) approve and make the order by Statutory Instrument, or b) refer the order back to the Panel for further consideration.

The Panel reviewed the level of minimum hourly rates and other agriculture related allowances and benefits prescribed in the 2017 Order and, in accordance with their functions, prepared the 2018 Order which increases minimum hourly rates for all Grades and categories of agricultural worker. The panel conducted a targeted consultation on the new proposed rates for the draft 2018 Order in the autumn of 2017.

The intention of the Panel is to have the new Order in force on 1 April, the same date the NLW and NMW increases take effect. The Panel’s aim is to align the agricultural minimum wage (AMW) increase with NLW and NMW changes, avoiding employers and employees having to cope with a transitional period during which the NLW/NMW would override the AMW levels in Wales.

2 Matters of special interest to the Constitutional and Legislative Affairs Committee

Breaching the 21 day rule is proposed to ensure the 2018 Order comes into force on the day after it is made. This will minimise the time taken to bring the new AMW rates into force.

A breach of the 21 day rule is thought necessary and justifiable in this case on the basis it will bring the uplifted agricultural wage rates in line with changes in the National Minimum Wage (NMW) and National Living Wage (NLW), thereby minimising the time period some agricultural workers in Wales will be subject to the UK NMW and NLW levels, rather than the uplifted AMW rates.

Any delay would further penalise those agricultural workers who are currently being paid lower rates of pay than they would have anticipated receiving from 1 April 2018.

3 Legislative background

The 2018 Order is made pursuant to sections 3, 4(1) and 17 of the 2014 Act.

Section 3(1) provides an agricultural wages order is an order making provision about the minimum rates of remuneration and other terms and conditions of employment for agricultural workers. Pursuant to section 3(2), an agricultural wages order may include provision specifying (among other things) the minimum rates of remuneration for agricultural workers.

Section 3(3) provides an agricultural wages order may specify different rates and make different provision for different descriptions of agricultural worker.

Section 4(1) stipulates the Welsh Ministers may, after receiving a draft agricultural wages order from the Panel, either approve and make the order or refer the order back to the Panel for further consideration and resubmission.

Section 17(1) provides that any power of the Welsh Ministers to make an order is exercisable by statutory instrument and includes power to make such incidental, consequential, supplemental, transitional, transitory or saving provision as the Welsh Ministers consider necessary or expedient for the purposes of the 2014 Act.

Pursuant to section 17(3) of the 2014 Act agricultural wages orders are subject to the negative procedure.

4. Purpose & intended effect of the legislation

The statutory AMW regime in Wales safeguards employment conditions and allowances unique to the agricultural sector. It recognises and rewards qualifications and experience through a six grade career structure and provides remuneration rates for each grade and category of worker.

Given the distinct nature of agricultural employment, including seasonality, dominance of casual employment and the use of on-farm accommodation, it is considered desirable to have a separate system of wage setting and employment provisions. This was previously managed by the Agricultural Wages Board (AWB) for England and Wales until its abolition (without reference to the Welsh Government) by the UK Government on 25 June

2013. The Panel carries out similar functions to the AWB by reviewing wages and other employment conditions of agricultural workers in Wales. In addition, the Panel's remit includes promoting skills and career development in the agricultural sector.

The structure of agricultural wages orders rewards qualifications and experience in agriculture through a six grade structure and provides remuneration rates for each grade and category of worker.

Grade 1 is seen as a transitional Grade. The statutory provisions allow Grade 1 workers to gain the necessary qualifications to move to Grade 2 following 30 weeks of continuous employment, at the expense of their employer. The differential between Grade 1 and Grade 2, and the subsequent higher grades, provides an incentive for the further up-skilling of the agricultural workforce and helps set clear career paths for all those employed in agriculture.

Agricultural wages orders contain provisions for apprentices who undertake training under government approved apprenticeship schemes. These provisions support succession, skills development and skills retention within the industry, all of which are considered crucial for the future success of agriculture in Wales. Attractive rates offered to apprentices can help the sector to become a viable and appealing career choice.

The 2018 Order ensures the Welsh agricultural sector operates in accordance with provisions that are in step with current economic conditions, including increased cost of living and changes to the national minimum wage and national living wage levels.

The 2018 Order will replace the 2017 Order and increase the 2017 minimum pay levels for all categories and grades of agricultural workers in Wales. The Panel agreed a 4% increase for Grade 1 workers of compulsory school age, an increase of 5% for Grade 1 workers aged 16-24 and an increase of 10% for Grade 2 workers. The rates of Grade 1 and Grade 2 were agreed in the context of the national minimum wage and national living wage increases. The Panel agreed increases of 4-7% for workers employed at Grades 3-6 and as apprentices.

The Panel proposed the following increases for the Agricultural Wages (Wales) Order 2018.

Grade	2018 rates	2017 rates
Grade 1 Worker of compulsory school age (13-16)	£3.47	£3.34
Grade 1 Worker (16-24 years of age)	£7.38	£7.06
Grade 1 Worker (aged 25+)	£7.83	£7.51
Grade 2 – Standard Worker	£8.29	£7.54
Grade 3 – Lead Worker	£8.54	£8.22
Grade 4 – Craft Grade	£9.16	£8.82
Grade 5 – Supervisory Grade	£9.70	£9.34
Grade 6 – Farm Management Grade	£10.48	£10.09
Year 1 Apprentice	£3.93	£3.78
Year 2 Apprentice (aged 16-17)	£4.21	£4.05
Year 2 Apprentice (aged 18-20)	£5.90	£5.60
Year 2 Apprentice (aged 21-24)	£7.38	£7.05
Year 2 Apprentice (aged 25+)	£8.05	£7.50
Changes proposed for allowances -		
The dog allowance- per dog to be paid weekly where an agricultural worker is required by their employer to keep one or more dogs	£8.02	£7.72)
The night work allowance for each hour of night work	£1.52	£1.46
The birth and adoption grant	£63.09	£60.72

Agricultural wages orders provide a range of additional agriculture related allowances. Some of these are linked to the appropriate basic pay rates, such

as overtime rates and on-call allowance. These provisions acknowledge the unique nature of agricultural work, for example many workers are required to work above their contracted hours during busy periods. The 2018 Order will maintain overtime rates at 1.5 times above the applicable basic rates – this will apply to all workers and apprentices.

There are rate rises proposed for the Dog allowance: proposed rate £8.02 (2017 Order £7.72), the Night work allowance: proposed rate £1.52 per hour of night work (2017 Order £1.46) and the Birth and Adoption grant: proposed rate £63.09 for each child (2017 Order £60.72)

The Dog and Night Work Allowances recognise that workers often require a dog to assist them in carrying out their duties and that agricultural workers can be required to work at times outside the normal working day for example to assist in maintaining animal welfare standards.

The Dog allowance is paid weekly where an agricultural worker is required by their employer to keep one or more dogs. The Night work supplement is paid for each hour of night work and is applicable to work undertaken between 7pm in the evening of a given day and 6am the next morning and is payable on top of the worker's applicable hourly rate. It does not apply for the first two hours of night work.

The Birth and Adoption grant is 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. The grant is payable on production of the child's Birth certificate of Adoption Order.

5. Consultation

The Panel met to decide whether to propose changes to the 2017 wages order on 9 September. A targeted consultation on their proposals was conducted 28 September – 3 November 2017. The proposals were emailed to an extensive list of people and organisations and were made available on the Panel's web platform. Copies of the consultation were also available on request.

Key stakeholders, including the farming unions, UNITE, agricultural colleges and bodies such as the Association of Labour Providers were included. Panel members were encouraged to share the proposals throughout their networks.

Four responses were received. There was overall support for the proposals but significant discontent from the NFU on the proposed rate rises which they maintained would be difficult to afford for the industry. The Panel met to discuss the responses to the consultation on 19 November and decided to submit their proposals to Welsh Government.

Regulatory Impact Assessment of the Agricultural Wages (Wales) Order 2018

1. Proposed changes in AWO 2018

The Panel proposes to change the minimum hourly rates of pay as follows.

Grade or category of worker	Minimum hourly rate of pay
Grade 1 worker under compulsory school age	£3.47
Grade 1 worker (16 – 24 years of age)	£7.38
Grade 1 worker (aged 25+)	£7.83
Grade 2 worker	£8.29
Grade 3 worker	£8.54
Grade 4 worker	£9.16
Grade 5 worker	£9.70
Grade 6 worker	£10.48
Year 1 Apprentice	£3.93
Year 2 Apprentice (aged 16-17)	£4.21
Year 2 Apprentice (aged 18-20)	£5.90
Year 2 Apprentice (aged 21-24)	£7.38
Year 2 Apprentice (aged 25+)	£8.05

Dog allowance: £8.02 (2017 Order £7.72)

Night work allowance: £1.52 per hour of night work (2017 Order £1.46)

Birth and adoption grant: £63.09 for each child (2017 Order £60.72)

4. Impact assessment

4.1 Summary of Policy options

In this impact assessment, two policy options are considered, reflecting the baseline arrangements (defined below) and the recommendations negotiated by the Panel. Broad categories of costs and benefits are identified. Where sufficient data are available, costs and benefits are quantified for a 12-month period (until which point it is assumed that the new Agricultural Wage Order 2019 will come into effect)¹. However, constrained by data availability, it is not possible to produce a fully quantified analysis of costs and benefits. Some of the costs and benefits are discussed qualitatively.

Option 1: Do Nothing. This is the baseline policy option to maintain the minimum wage rates for agricultural workers at 2017 levels in accordance with the provisions of the Agricultural Wages Order (Wales) 2017. In addition, the 2014 Act provides provisions that hourly wage rates cannot be below the statutory UK NMW/NLW. In the baseline scenario, the minimum wage rates are adjusted to the 2018 NMW/NLW rates where the rates in AWO 2017

¹ Cumulative effects across years arising from AWOs are not considered within this RIA.

would fall below the NMW/NLW from April 2018. The costs and benefits will be measured against this baseline policy option.

An important context to this baseline is that it maintains the long standing and well-known AMW regulatory regime (preserved by the 2014 Act) for relevant agricultural workers, which safeguards employment conditions and allowances unique to the agricultural sector. The AMW regime recognises and rewards qualifications and experience through a six grade career structure and provides remuneration rates for each grade and category of worker. Having a separate system of wage setting and employment provisions was justified on the basis of the distinct nature of agricultural employment, including seasonality, dominance of casual employment and the use of on-farm accommodation. This system was previously managed by the Agricultural Wages Board (AWB) using Agricultural Wages Orders (AWO). The final wages order issued by the AWB in 2012 (prior to its abolition) was replaced by the interim AWO 2016 in April 2016 and AWWO 2017 to ensure that the agricultural sector in Wales operated under provisions which would be in step with changes in economic conditions, until the Panel was set up and able to commence its work. The previous regulatory impact assessments suggested that the benefits of AWO 2016 and AWO2017 include:

- Assisting the effective functioning of the agricultural sector by supporting the existence of a well-trained and skilled workforce which in turn can increase productivity and efficiency.
- Ensuring wage progression for agricultural workers and supporting rural communities - which is an issue of importance within the context of the Welsh Government's Tackling Poverty agenda - through effects on household incomes and improving the skills base of agricultural workers.
- Support agricultural workers and apprentices to gain skills and qualifications, which can improve their job prospects in the future.

The AMW regime also sets rates for young workers under the age of 16 and apprentices as part of a minimum wage rate structure intended to support entry and development of an appropriately skilled workforce. Having attractive minimum wage rates for these categories of workers can help encourage the younger generation to choose a career in agriculture.

Retaining these identified benefits of having an AMW regime is likely to be particularly important when skill shortage is a prevalent issue for the agriculture sector. More generally, as stated in the Agricultural Sector (Wales) Bill, the benefits of the AMW regime include:

- *It provides a structure to reward skill and experience and maintains a balanced and well-functioning sector in Wales.*
- *It recognises that the agricultural sector is different from other sectors and acknowledges the nature of seasonal work by having special provisions for flexible workers and safeguards the succession of skilled workers by specifying provisions for apprentices and trainees.*

- *It helps farmers and farm workers to specify the terms and conditions of their employment and avoid potential disputes and the need for lengthy negotiations with individuals.*

It is important to note that the baseline option represents a situation where the AMW regime exists. Therefore, the costs and benefits of policy alternatives relative to this baseline do not include the benefits or costs associated with the existence of the Agricultural Minimum Wage (AMW) regime. Instead, it is an assessment of additional costs and benefits of AWO 2018 relative to the AWO 2017 scenario which also takes account of the NMW/NLW changes from April 2018.

Option 2: Implementing New Order. This is the policy alternative, which would involve replacing the current Order (2017) with a new Order (2018). The new order includes all the recommendations from the Agricultural Advisory Panel for Wales. In particular, the new order includes the following key changes to the minimum rates for different categories of workers (see Table 1).

Table 1: Summary of proposed changes to the minimum wage rates by grade

Grade or category of worker	AWO (2017)	AWO (2018)	% increase from 2017 rate
Grade 1 worker under compulsory school age	£3.34	£3.47	4%
Grade 1 worker over compulsory school age (16-24)	£7.06 (will rise to £4.20 to £7.38 in 2018 depending on age)*	£7.38	5%
Grade 1 work (aged 25+)	£7.51 (will rise to £7.83 in 2018)	£7.83	4%
Grade 2 worker	£7.54	£8.29	10%
Grade 3 worker	£8.22	£8.54	4%
Grade 4 worker	£8.82	£9.16	4%
Grade 5 worker	£9.34	£9.70	4%
Grade 6 worker	£10.09	£10.48	4%
Year 1 Apprentice	£3.78	£3.93	4%
Year 2 Apprentice (aged 16-17)	£4.05	£4.21	4%
Year 2 Apprentice (aged 18-20)	£5.60	£5.90	5%
Year 2 Apprentice (aged 21 -24)	£7.05	£7.38	5%
Year 2 Apprentice (aged 25+)	£7.50	£8.05	7%

Note *: There are NMW rates from April 2018-£7.38 for workers aged 21 to 24; £5.90 for workers aged 10 to 20; £4.20 for workers aged under 18.

These increases of 4-10% compare to average wage inflation of 2.2% in the UK between November 2016 and November 2017 (the latest data available)².

The Panel considered a range of statistical information including published data on cost of living increases and the retail index as well as the projected rises to the National Minimum Wage and the National Living Wage when discussing their recommendations for the Order.

- **Grade 1 worker under compulsory school age**

The pay rate for Grade 1 workers under compulsory school age will increase to by 4% to £3.47 in the proposed AWO 2018. Young workers aged between 13 and 16 are only allowed to work part time, specifically 12 hours per week during term time and 25 hours per week during school holidays. However, as there is no data on the number of workers within this category, it is not possible to quantify the changes in total labour costs or earnings.

- **Grade 1 worker over compulsory school age (16-24)**

The hourly minimum wage rate for Grade 1 workers aged between 16 and 24 was £7.06 within AWO 2017. In the proposed AWO 2018, this will be set at £7.38 (NMW adult rate). The proposed rate represents 5% increase from the rate for 2017. However, as the 2014 Act provides provisions that hourly wage rates cannot be below the statutory UK NMW, the AWO 2017 rate would increase to £7.38 (the statutory NMW rate) from April 2018 in any case. Therefore, there would be no difference to the baseline as the proposed rate just matches the NMW level in 2018.

- **Grade 1 workers (aged 25+) and Grade 2-6 workers**

Compared to the hourly rates in 2017 AWO, the proposed changes in the AWO (Wales) 2018 includes 10% increases in the minimum wage rate for Grade 2 workers and 4-5% for workers in other grades.

The biggest increase in minimum wage rates is for Grade 2 workers.

For grade 1 workers aged over 21, the hourly wage rate proposed in AWO 2018 just matches the level of NMW from April 2018. Therefore for this group of workers, there will be no change from the baseline.

For Grade 1 workers aged 16-20, the hourly rate will go up by 5% from £7.06 to £7.38 and young workers within this grade would benefit from this increase. However, the benefit cannot be quantified due to lack of data on the agricultural workers by grade or age in Wales. Given that Grade 1 is considered to be a transitional grade with the right to appropriate training to reach Grade 2 after 30 weeks, we assume that the number of workers in this Grade and the number of workers aged 16-20 in this grade will be small (on a full-time or part-time basis).

² Average Weekly Earnings time series, ONS

Traditionally, the AWB maintained a pay differential between Grade 1 and 2 at around 10% in order to underline the transitional nature of Grade 1 (initial Grade) and encourage workers' entry to Grade 2 (standard Grade).

Within the proposal of AWO 2018, the difference between the minimum wage rates for Grade 1 (over 25) and Grade 2 becomes smaller compared to those in AWO 2012 and AWO 2016 (see Table 2) but larger than that in AWO 2017. In AWO 2018, the proposed minimum wage rate for Grade 2 workers is 6% higher³ than that for Grade 1 workers aged 25 and above.

Table 2: Hourly Wages Rates by Grade in AWO 2012, 2016, 2017 and 2018.

Grade	Hourly Wage Rates				% Paid above the previous grade			
	2012	2016	2017	2018	2012	2016	2017	2018
Grade 1 worker (aged 25+)	6.21	£7.2	£7.51	£7.83	-	-	-	-
Grade 2 worker	6.96	£7.39	£7.54	£8.29	12%	10%	0.4%	6%
Grade 3 worker	7.66	£8.12	£8.22	£8.54	10%	10%	9%	3%
Grade 4 worker	8.21	£8.72	£8.82	£9.16	7%	7%	7%	7%
Grade 5 worker	8.7	£9.23	£9.34	£9.70	6%	6%	6%	6%
Grade 6 worker	9.4	£9.97	£10.09	£10.48	8%	8%	8%	

Source: Hourly wage rates are from AWO 2012, 2016, 2017 and the AWO 2018 proposal. Percentage paid above the previous grade are calculated from minimum hourly wage rates.

Similarly, the difference between the minimum wage rates for Grade 2 and Grade 3 also becomes smaller at 3%. In previous AWOs the difference between the two grades was around 10%. This change means may lead to reduced incentives for Grade 2 workers to upskill so as to progress to Grade 3 although some workers may still be incentivised to pursue training to reach even higher grades.

- **Year 1 and Year 2 Apprentice**

The minimum wage rates for the Y1 and Y2 apprentices within AWO 2018 are higher than the national minimum wage rates for Apprentice which other sectors would abide to. This will help the agricultural sector to become a viable and appealing career choice.

The hourly pay rates for Y1 Apprentice and Y2 Apprentice under 24 years old in the proposed AWO 2018 are 4-5% higher than the AWO 2017 rates.

³ The wage rates compared also reflects changes in NMW/NLW rates from April 2017.

The hourly rate (£8.05) for Y2 Apprentices aged 25 and older in AWO 2018 is 7% higher than the AWO 2017. It should be noted that this hourly wage rate is even higher than that (£7.83) for Grade 1 workers proposed in 2018.

However, as there is no data available on the number of apprentices working in agriculture, the impact of changes in minimum wage rates of these Apprentice grades cannot be quantified.

- **Changes in other provisions**

In addition to the changes in minimum wage rates for different types of agricultural workers, there are a few other changes in other provisions (see Table 3). These include changes to dog allowance, night allowance and birth and adoption grants, all of which has a 4% increase from the AWO 2017 rate.

Table 3: Changes to other provisions

Type	AWO 2017	AWO 2018	% increase
Dog allowance	£7.72	£8.02	4%
Night allowance	£1.46	£1.52	4%
Birth and adoption grants	£60.72	£63.09	4%

The costs and benefits of these changes cannot be quantified due to lack of data.

- **Summary of quantification of wage costs/earnings**

Due to data availability, the breakdown by grade is not available for many of the worker groups. Therefore, only the costs and benefits associated with agricultural workers for Grade 1 (aged 25+) to Grade 6 were estimated for both basic pay and overtime pay in the RIA where the number of workers in each grade were estimated based on data from Farm Labour and Wage Statistics (Defra, 2012)⁴. These estimates were based on Defra's costings model and the hours worked per week collected from the Earnings & Hours survey, run by Defra's Economics and Statistics Programme. The hours were broken down into basic and overtime, and the calculation of the wage costs reflected this. Although the data is dated, it represented the only available source of data that contained break down information by grade of workers. It should also be noted that this was not Wales specific data and represented the labour structure by grade of workers for England and Wales. Therefore, the assumption was made that the labour structure in Wales was similar to the overall estimate made by Defra in their survey.

The changes in costs or benefits related to other categories of workers are expected to be very small due to small number of people involved in those

⁴ Available at:

<http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/statistics/files/defra-stats-foodfarm-farmmanage-earnings-labour2012-120627.pdf>

categories, which include Grade 1 workers aged between 16-24 and Year 2 Apprentice.

- **Enforcement cost**

In terms of enforcement costs, it is anticipated that administrative costs accruing to the Welsh Government would be broadly similar under Agricultural Wages Order 2018 option as the Welsh Government is enforcing the Orders introduced under the 2014 Act.

The government enforcement costs associated with the 2014 Act for enforcing the provisions of the 2012 wages order was estimated at around £3,000 per year in the previous RIAs of the wages orders in 2016 and 2017. This was based on a reactive enforcement mechanism, where the Welsh Government would investigate any claims of potential underpayment and if necessary, issue enforcement notices. There were 3 formal cases needing varying levels of investigation 2016-2018. It is difficult to predict the number of cases arising, or their precise nature. Enforcement costs continue to be based on the assumption that there are two cases per year to investigate.

No separate costing to Welsh Government associated with inspection/enforcement work should the Act be continued. It is difficult to predict accurately the number of cases that may come forward but these will be met from existing provision.

- **Administrative cost**

There would be an annual cost involved with the operation of the Panel should the Act be continued. This would include expenses incurred by the Panel individually, meeting room costs, legal and research costs. This is estimated to be an average annual cost of approximately £60,000

In addition to the cost of compliance, there will be a cost to farm businesses for adjusting to the requirements of the new AWO and changes in associated calculations in Wales.

Farmers will need to be familiar with both the Welsh AWO provisions and UK labour legislation (for example, in relation to the national minimum wage) to ensure that workers are being correctly remunerated.

It is assumed that each employer would need one hour⁵ to familiarise themselves with the new Order and make adjustments to pay rates and other provisions. Based on data from the Office for National Statistics (ONS)' Annual Survey of Hours and Earnings (2017)⁶, it is assumed that the average

⁵ This is consistent with the estimates used in the RIA of abolishment of AWB by Defra and the RIA of the Act 2014.

⁶ Estimates for 2017 (provisional) of paid hours worked, weekly, hourly and annual earnings for UK employees by gender and full/part-time working by 2 digit Standard Industrial Classification 2007. Industry (2 digit SIC) - ASHE: Table 4.6a. Available at:

cost per hour of a farmer's time is £11.32 (figure for all employees in the agriculture, forestry and fishing industry, excluding overtime pay). The median value of agricultural labour cost from the same source was £9.47 per hour. Inclusion of non-wage labour costs, such as employer's national insurance and pension contributions would serve to increase such cost estimates. In addition, the hourly rate used here is an average/median value for all farm workers. In reality, however, those whose time is involved are likely to be the farmer owners or farm business managers whose wage rates are likely to be at the higher end of the wage rate distribution.

According to ONS statistics on business population by region and by sector, there are 14,490 businesses in agriculture, forestry and fishing sector in Wales in 2016 with 3,170 businesses being employers⁷. The administrative costs to farm businesses are therefore estimated at £36k for Wales. If using the median value for the labour cost (£9.47 per hour), the total admin costs to farm businesses are estimated at £30k. The estimated cost would be higher if the wage rates for farm managers/owners were used and non-wage costs were reflected in the rates. However, it should also be noted that not all the 3,170 agricultural businesses who employed labour are using the AWO but it is not known how many of these businesses being users of the AWO.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/industry2digitsicashetable4>

⁷ Table 21 Number of businesses in the private sector and their associated employment and turnover, by number of employees and industry section in Wales, start 2016 within statistics on BUSINESS POPULATION ESTIMATES FOR THE UK AND REGIONS 2016. Available at: <https://www.gov.uk/government/statistics/business-population-estimates-2016>.

1.1 Evidence Review

In this RIA, we have reviewed the evidence presented in the previous RIAs of AWO 2016, AWO 2017 and considered additional literature where relevant. Our conclusion is that the key points made in the previous RIA on the minimum wage impacts are still valid, which are summarised as follows. However, it should be noted that the evidence was focused on the impact of minimum wages while the economic evidence on the effects of the multi-grade minimum wage structure (i.e. multiple wage floors) is rather limited.

- *Employment:* Provided minimum wage levels are set cautiously, their negative effect on employment levels within affected sectors can be minimised. Some evidence has been found for a reduction in hours worked, but this is not conclusive. There is also evidence suggesting that the introduction of the minimum wages was associated with an increase in labour productivity. On balance, the evidence suggests that there are limited effects of the introduction of the minimum wages on employment. This is especially the case where the minimum wage rates have been set incrementally within context of economic/labour market conditions.
- *Wage rates and structure:* If minimum wages are set above current market rates, they act to raise the wage floor, tending to compress the wage structure by raising the wages of the lowest paid relative to others. The effect may be transmitted up the pay structure, leading to wage rises for those being paid more than the statutory minimum, although the extent to which this has taken place has varied across different minimum wage regimes.
- *In-work poverty:* Minimum wages tend to benefit the lowest-earning working households, thus having some positive impact on in-work poverty. This positive impact, however, may not necessarily positively impact on low earning households. Overall, the impact of minimum wages on poverty is very small. The Institute for Fiscal Studies⁸ has found that the National Living Wage will raise household incomes by less than 1% on average, even for poorer households.
- *Company level impacts:* Research suggests that firm responses to involuntary increases in wage costs can include increasing prices, increasing labour productivity⁹, accepting reduced profits, organisational changes (such as tighter human resource practices, increased performance standards at work, and better management

⁸ Institutes for Fiscal Studies (IFS), 2016. Living Standards, Poverty and Inequality in the UK: 2015-16 to 2020-2. IFS Report R114.

⁹ Research on labour productivity growth in general tends to demonstrate linkages between the NMW and productivity that are positive but not statistically significant. [Source: David Metcalf, 'Why has the British National Minimum Wages had Little or No Impact on Employment?'. Journal of Industrial Relations, Vol 50:3, pp. 489-512 (pp. 501-502).]

practices), efficiency wage¹⁰ and training responses (increasing training provisions to employees). However, the relationships between company level responses and the pay structure with multiple minimum wage levels are an under-explored area within the literature.

1.2 Costs & benefits

This section assesses the potential costs and benefits for both policy options. However, significant limitations exist across data and methodology. Specifically, disaggregated up to date data for Wales are not always available and few methodologies exist to demonstrate the relationship between employment, business performance of the agricultural sector and minimum wages. As a result, some impacts cannot be quantified with any degree of accuracy. The quantification was focused on the impact on wage costs/earnings for Grade 1-6 agricultural workers where disaggregated data are most available. However, the distribution by grade of workers was based on Defra study in 2012 which was not Wales specific data. The impact on other categories of workers or the impact of changes in other allowances generally affect very small groups of workers and the impacts are expected to be minimal. Due to lack of detailed data on these groups, the impacts of changes related to them were not estimated. However, the administrative costs to the farmers are estimated for their time to familiarise themselves with and make adjustments in accordance to AWO 2018. Where estimates are provided, they are indicative, with Appendix A containing the detailed calculations of how these estimates were derived.

In terms of minimum wage rate changes, the Agricultural Wages (Wales) Order 2018 represents a rise of 4-6% rise for agricultural workers within Grade 2-6. The most significant changes in pay rates are for Grade 2 agricultural workers, which represent a 6% increase from the AWO 2017 level at April 2018. This affects over 3,766 workers (28% of the total workforce)¹¹ in this Grade (with 80% of whom being part-time and casual workers) out of the 13,621 paid agricultural workers in Wales in 2016.

As a result, this RIA takes the following approach to assessing each option:

- **Option 1:** Baseline option.
- **Option 2:** Provides more detailed estimates as to the impact of changes in minimum wage levels for Grades 1 to 6, aiming to calculate additional impacts that directly relate to Option 2.

¹⁰ The efficiency wages are based on the notion that wages do not only determine employment but also affect employees' productive behaviour or quality. Under certain conditions, it is optimal for employers to set compensation above the market clearing level in order to recruit, retain or motivate employees.

¹¹ Calculated based on the number of agricultural workers in Wales and distribution by grade of workers from Defra's estimates in 2012 and Agricultural Statistics for Wales (2016).

Option 1: Do nothing

This is the baseline option and the costs and benefits associated with this 'do nothing' option are only estimated to measure the difference between this option and the policy alternative.

Option 2: Introducing Agricultural Wages (Wales) Order 2018 to replace AWO 2017.

1: Impact on Employment

Standard neo-classical theory predicts that minimum wage floors (above market clearing levels) will reduce labour demand (reducing employment levels or hours), but to date the large number of studies examining the employment impacts of the NMW/NLW suggest that labour demand has remained broadly unchanged despite this legislated rise in earnings for the lowest paid¹². This is consistent with the findings from the literature review in the previous RIAs of AWO 2016, AWO 2017 for Wales.

In the previous RIAs, employment effect was estimated using a minimum wage elasticity of -0.19 (an average value from the literature).

The agricultural labour force in Wales during 2016 totalled 53,524 people, with 13,621 of these being employed as farm workers (see in Table 7 Appendix A). No data is available as to the proportion of the total farm workers in each grade in Wales. However, such data is available for the UK as a whole for 2012 from Defra which is based on historic data and assumptions. The estimates from the Defra study can be combined with the 2016 data for the total agricultural labour force in Wales to provide crude estimates of workforce grade composition (see in Table 8 Appendix A). It is estimated that some 3,148 workers may be within Grade 1, 7,550 workers within Grade 2 and some 2,900 workers within Grades (3-6).

Based on these estimates and an application of the mean elasticity estimate (0.19), it is estimated that there would be a reduction in employment of 132 farm workers¹³ (see Table 15 in Appendix B for detailed calculations). It should be noted that these minimum pay rate increases are not the full difference between AWO 2017 and AWO 2018; instead, it has taken account of forthcoming increases in NMW and NLW from April 2018. If using the median value of elasticity coefficient -0.03, the reduction in employment would be 21 people (see Table 16 at Appendix B).

In terms of reductions to hours worked, some evidence suggests that it is likely that some farm businesses will seek to absorb higher labour costs

¹² Riley, R. and Bondibene, C. (2015). Raising the Standard: Minimum Wages and Firm Productivity. National Institute of Economic and Social Research.

¹³ The number of workers reduced = $0.19 * 0.13\% * 3859$ (Grade 1) - $0.19 * 0.5\% * 9257$ (Grade 2) - $0.19 * 1.1\% * 3539$ (Grade 3-6) = 17

through reducing the number of hours worked in addition to other effects on employment, although this cannot be estimated with any degree of accuracy.

2: Earnings

In 2012, Defra published a labour force model which was used to calculate gross wage costs at a UK level. The estimated additional costs of the proposed pay rate increases for each worker type (full time, part time and casual) have been calculated by multiplying the increase per hour for the respective grades, the number of hours worked per week, the number of weeks worked per year and the number of workers in the industry (not adjusted to taking account of non-wage labour costs). There are separate costings for basic and overtime. As disaggregated data by grade of workers for Wales were not available, the cost estimates are based on these 2012 UK assumptions combined with 2016 agricultural labour force data for Wales (see Table 7 to Table 10 in Appendix A) of changes in gross annual wage costs for Option 2 relative to the baseline option. These estimates are also provided in Table 4, which suggests that the changes in costs for Option 2 are estimated at £5.5million with the largest impact from Grade 2 workers. Although the basis used to estimate the number of workers in each grade, the number of hours worked per week and the number of weeks worked per year is partly relying on data from Defra cost model which is dated back to 2012, it still represents the best estimate that is available for calculating the additional labour costs as a result of pay rate rises.

It should also be noted that the difference in minimum wage rates between Option 1 and 2 is not the full difference between AWO 2017 and AWO 2018. It also takes account of forthcoming statutory NMW and NLW from April 2018.

Table 4: Estimated changes in annual wage costs, waged agricultural workforce, Wales 2018 (a-c)

Grade	Full-time (£)		Part-time (£)		Casual (£)		Total (£)
	Basic	Overtime	Basic	Overtime	Basic	Overtime	
1	£0	£0	£0	£0	£0	£0	£0
2	£1,376,343	£324,662	£1,176,080	£0	£459,092	£75,360	£3,411,538
3	£220,951	£52,120	£90,905	£0	£0	£0	£363,976
4	£782,536	£184,591	£151,778	£0	£0	£0	£1,118,905
5	£303,808	£71,665	£43,829	£0	£0	£0	£419,302
6	£149,603	£35,289	£15,827	£0	£0	£0	£200,719
Total (£)	£2,833,242	£668,326	£1,478,419	£0	£459,092	£75,360	£5,514,440

Notes:

(a) Data assumes that workers are earning no more than the hourly minimum.

(b) Defra assumed that part-time workers do not work overtime.

(c) Totals may not sum due to rounding.

Source: Authors' calculations

Option 2 may create a wage difference between Wales and England, potentially disadvantaging farmers who largely compete with producers based in England, as is the case for the dairy industry. More generally, this would affect actual wage rates/terms and mobility of labour and potentially increase to the cost base. This relative increase to the cost base may accentuate the degree to which decreases in profits/ hours worked, or increases in prices may take place. However, farmer businesses in Wales are generally price-takers with limited power to influence the price of their goods and there will be limited scope to pass on cost increases via price rises. Despite this, it is reasonable to conclude that the increased cost base associated with Option 2 will have some negative impact on the sector's competitive positioning with those businesses located in England, but that such impacts are likely to be relatively marginal in overall terms. Changes in market conditions may lead to structural changes within the sector rather than differences in wage rates, although other market conditions will also apply to farm businesses elsewhere.

As there are some uncertainties around the distribution of farm workers by grade, sensitivity analysis was carried out to test the impact on the results.

The distribution by grade was based on data from Defra which was not Wales specific data and has not been updated after 2012. Three tests were carried out varying the percentages for Grade 2, Grade 4 or Grade 5 full-time workers. Composition 1 is the baseline; composition 2 increasing Grade 2 workers by 10% and reducing Grade 4 workers by 10%; composition 3 increasing Grade 2 workers by 10% and reducing Grade 5 workers by 10%¹⁴. For composition 1, the wage cost of Option 2 is estimated at £5.51 million. The wage cost based on composition 2 is £5.63million and £5.61 million based on composition 3. Collection of data on farm workers by grade in Wales would help improving accuracy of estimates.

composition 1			
Grade	Full-time	Part-time	Casual
Grade 1	6%	14%	39%
Grade 2	39%	63%	61%
Grade 3	9%	7%	
Grade 4	30%	11%	
Grade 5	11%	3%	
Grade 6	5%	1%	

Composition 2			
Grade	Full-time	Part-time	Casual
Grade 1	6%	14%	39%

¹⁴ 10% is an arbitrary number. As the actual distribution by grade for Wales is not known, a 10% redistribution between grades was assumed and deemed to be big enough to test sensitivity.

Grade 2	49%	63%	61%
Grade 3	9%	7%	
Grade 4	20%	11%	
Grade 5	11%	3%	
Grade 6	5%	1%	

composition 3			
Grade	Full-time	Part-time	Casual
Grade 1	6%	14%	39%
Grade 2	49%	63%	61%
Grade 3	9%	7%	
Grade 4	30%	11%	
Grade 5	1%	3%	
Grade 6	5%	1%	

1.3 Impact on prices, productivity and profitability

As well as impacting on total wage costs and labour inputs, increases to the cost base caused by additional wage costs may be expected to impact on farm businesses – and three issues profits, prices and productivity are briefly discussed. The extent to which these outcomes will occur in relation to Option 2 depends on a broad range of factors affecting individual farm businesses. Existing literature is unclear on the linkages between minimum wages and these factors, which are therefore assessed qualitatively.

In relation to output prices, farms in Wales are generally price-takers with limited power to influence the price of their goods. While such influence will vary according to the type and nature of the product being sold, Welsh farmers are generally operating in a national or international market with relatively limited product differentiation. When combined with current market pressures, this means that passing on cost increases via price rises seems unlikely, although farms in some sectors may be more likely than others to have a marginally greater ability to increase prices.

There is limited evidence as to the linkage between minimum wage structure and labour productivity on farms in Wales. The scope available to each farm to exploit productivity improvements will depend to a large extent on issues such as technology adoption, characteristics of the farm and farmer and any scope for economies of scale. Overall, there is insufficient evidence to assess the likely outcomes in terms of productivity implications.

In the absence of other adjustments, increased wage costs would be expected to put downward pressure on profits (reflecting the transfers to agricultural workers). In relation to profitability, there is great variation between farms in Wales and the extent of impacts will vary across farms.

1.4 Cost: government enforcement

It is considered that the enforcement cost related to Option 2 would remain at similar levels with Option 1.

1.5 Benefits

1: Impact on Earnings

Under the previously explained assumptions, the proposed changes in AWO 2018 minimum wage rates are estimated would raise total wages received by agricultural workers by some £5.5 million per annum. It should be noted that these benefits are not related to full change between AWO 2017 and AWO 2018; instead, they relate to the changes in wage rates taking account of forthcoming increases in NMW and NLW from April 2018.

This sum can be expected to have further indirect impacts in terms of localised spending power, with a greater concentration within rural areas with a higher proportion of agricultural workers although this also depends on patterns of expenditure that would have taken place from farm businesses (given the transfers).

2: Impact on poverty including in-work poverty

By raising the earnings floor, minimum wages might be expected to raise household income, all else being equal, with some potential impact on in-work poverty, although this could be offset by a reduction in hours worked/employment and, where relevant, could be dampened by the effects of the tax and benefits system whereby workers would pay more tax on increased pay and/or receive reduced benefits. The effect also depends on business and individual labour decisions.

Impact will vary depending on the proportion of the population in component wage jobs. The raising of minimum wage levels will have had some impact on in-work poverty by supporting the wages of the lowest paid workers. Although evidence is not available on the effects of multiple wage floors compared to single wage floors, the use of multiple minimal wage structure may accentuate impact on in work poverty, given that more workers will be affected than would be the case for a single wage floor. Putting this into the context of agricultural workers in Wales, of the 13,621 waged workers in agriculture within Wales in 2016, 3,783 (28%) were full time. The remaining 72% were part-time, seasonal or casual. The probability of in-work poverty is generally higher for part-time, seasonal or casual workers than full-time workers. This relates to around 10,000 farm workers on part-time or seasonal basis.

The most significant increase in the minimum wage rate is for Grade 2 workers (increased by 6% from previous year). This could positively impact some 1,475 people on full time basis, 2,308 on part-time basis and 3,766 casual workers (see Table 10) in Appendix A, which represents 39% of the total workforce. For other grades, there is 4-5% increase in wage rates and would also benefit farmer workers in relevant grades.

However, total impact on overall in-work poverty, and on rural poverty in general, will be limited due to the small number of people involved and the more uncertain impact on household poverty.

3: Impact on training and skills

It is anticipated that AWO 2018 will continue to enabling upskilling and a clearer career structure within the agricultural sector. It will contribute to developing and retaining skills across the entire agricultural sector.

Overall, the increase to agricultural minimum wage levels in Wales offers the opportunity to incentivise skills acquisition within the agricultural sector, potentially increasing the number of people receiving all types of training within the sector, and potentially enhancing the supply of skilled labour. As the minimum wage rates set out in AWO 2018 are generally higher than NMW/NLW and it maintains a privilege rate not universally enjoyed by other sectors than agriculture, this should help to retain the employment and skills within the agricultural industry. The upskilling impact is more related to the pay structure, which will be maintained under AWO 2018. However, as the wage rate for Y2 Apprentice (aged 25+) is set at £8.05 which is higher than that (£7.83) for Grade 1 workers (aged 25+), this may discourage upskilling to Grade 1 but should not affect people of upskilling to higher Grades from Apprenticeship. The potential increase in labour cost may to some extent negatively affect the provision of upskilling by employers.

1.6 Sector impacts

1. Impact on local government

No evidence of significant differential impact.

2. Impact on voluntary sector

No evidence of significant differential impact.

3. Impact on small businesses

The increase in costs associated with pay and other amended terms and conditions will affect farm businesses, including small businesses in the sector. The minimum agricultural wage rates had been updated annually by AWB until 2013. Grade 1 workers' pay rates were adjusted between 2013 and 2015 in line with NMW/NLW. The pay rates were further raised in the AWO 2016 and AWO 2017. It is important to acknowledge though that these rates only set statutory minimum wage levels and that employers may pay higher wages to workers to reflect their skills and the level of responsibilities taken on farm.

According to the Office for National Statistics (see Table 5), there are 14,490 agricultural, forestry and fishing businesses in Wales and 22% are employer businesses. The figures for England were 102,905 and 39%. This suggests

that agriculture in Wales is dominated by small businesses (18% being businesses that employ less than five employees) and the majority of businesses do not employ labour (78%). For smaller business with paid labour, the increases in labour costs as a result of increases in AMW may have a negative impact on business profitability.

ADAS carried out a study on the use of AWO for Welsh Government in early 2016 which involves a survey of 176 farm businesses that employed labour across different farm size and type. The study suggested that the average labour cost (for paid labour) was around 18% of the total inputs but no statistically significant differences were found between different farm sizes. This suggests that in terms of the cost structure (% of paid labour cost within total costs), it is similar across all farm sizes and there is no indication that smaller businesses would be affected disproportionately due to increases in the cost of paid labour.

Table 5: Number of agricultural businesses by size band in England and Wales (2016)

Agriculture, Forestry and Fishing	England		Wales	
	No. of businesses	%	No. of businesses	%
All businesses	102,905	100.0	14,490	100.0
All employers	40,210	39.1	3,170	21.9
With no employees (unregistered)*	4,540	4.4	670	4.6
With no employees (registered)*	58,155	56.5	10,650	73.5
1	13,840	13.4	1,350	9.3
2-4	17,855	17.4	1,325	9.1
5-9	5,425	5.3	360	2.5
10-19	1,910	1.9	110	0.8
20-49	820	0.8	20	0.1
50-99	215	0.2	5	0.0
100-199	85	0.1	0	0.0
200-249	20	0.0	0	0.0
250-499	25	0.0	0	0.0
500 or more	15	0.0	0	0.0

Source: ONS (2016) Business population estimates for the UK and regions 2016, Table 20 and Table 21.

Note: * Businesses with no employees can either be 'registered' for VAT or PAYE or are 'unregistered'.

The majority of farms in Wales are small businesses and the policy has been developed to within this context. As a result, the impact of Option 2 is not expected to impose any additional or disproportionate impact on small businesses. The larger farms, dairy farms and horticultural businesses tend to use more paid labour than the smaller businesses or other farm types. These farms may face more pressure from labour cost increases.

4. Impact by sector

The impact on different sectors may vary depending on the composition of cost base of the farm businesses. The Farm Business Survey data for Wales (2016-2017) suggests that the costs for casual and regular labour accounted for 4-6% of their agricultural cost base (see Table 6).

Table 6 : Labour cost as a percent of total input for farm businesses in Wales by sector (2016-2017)

Farm type	Labour cost (£), casual and regular labour	Agricultural cost (£)	Share of labour cost
LFA Cattle and Sheep Farms	3,500	81,700	4%
Lowland Cattle and Sheep Farms	4,100	77,900	5%
Dairy	17,000	271,100	6%
All Farm Types	5,800	112,200	5%

Source: Calculated from Farm Business Survey (FBS) data for Wales (2016/2017)

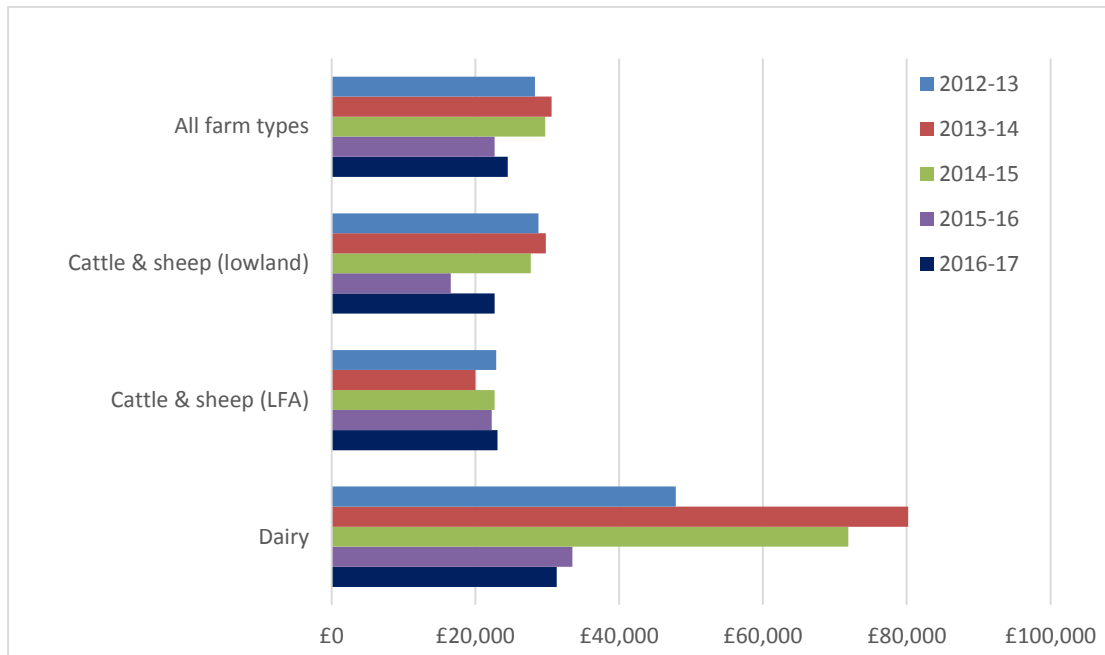
There is limited evidence as to labour productivity on farms in Wales. The scope available to each farm to exploit productivity improvements will depend to a large extent on issues such as technology adoption, characteristics of the farm and farmer and any scope for economies of scale. Overall, there is insufficient evidence to assess the likely outcomes in terms of productivity improvements.

In relation to profitability, there is variation between farms in Wales. Information on farm business income for 2016-17 suggests that there is variation across the major farm types. For dairy farms, the average farm business income was around £31,000 and cattle and sheep farms in the Less Favoured Area (LFA) around 23,000¹⁵.

Time series of farm business income data (see Figure 1) suggests that business profitability across the main farm types stays at a low level and that there is also variation between years and between farm types. For example, the farm business income for the dairy sector has declined dramatically in recent years and income for LFA cattle and sheep farms have been relatively stable but at low levels.

¹⁵ Source: Welsh Government 2017. Statistics on Farm Incomes. Available at: <http://gov.wales/statistics-and-research/farm-incomes/?lang=en>. For lowland cattle and sheep farms, there was a significant increase (+40% from the previous year) in farm business income in the year 2016-17 e.

Figure 1: Farm Business Income (in 2016/17 real prices) in Recent Years (2012/13-2016/2017) by Farm Type



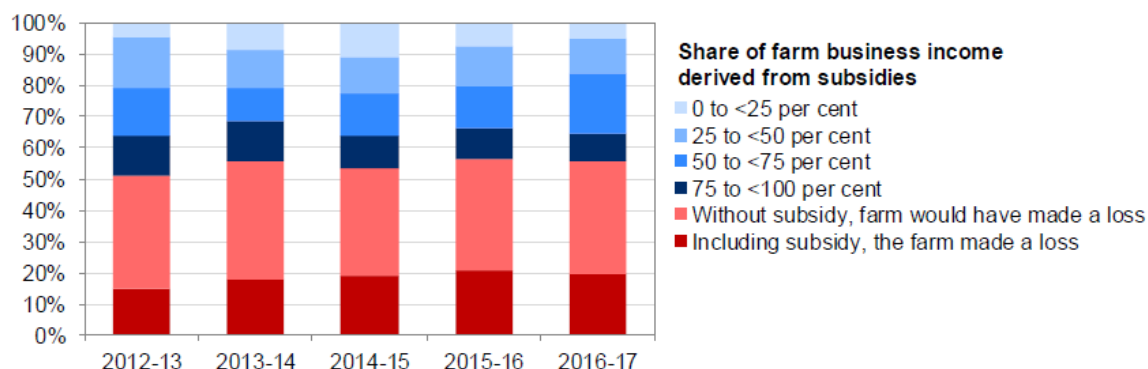
Source: Based on Statistics on Farm Incomes (2017).

It should be noted however, the profitability data of farm businesses should be interpreted in the context that the industry is currently heavily relying on public subsidies. According to the Farm Business Survey, over 50% of all farms either made a loss or would have done so without subsidy in year 2016-17 (see Figure 2). The level of dependence varies between farm types. In 2016-17, around 62% of cattle & sheep (LFA) farms either made a loss or would have done so without subsidy, compared with around 41% cattle & sheep (lowland) farms and around 44% of dairy farms. Subsidy was a small component of farm business income (less than 25%) on 3% of cattle & sheep (LFA) farms, compared with 26% of dairy farms.¹⁶

As a wider context, this dependence on subsidy can leave farms vulnerable to policy changes especially after Brexit. Increases in labour cost would add more pressure to farm business profitability particularly for those farms that are making a loss with and without subsidies.

Figure 2: Variation in subsidies* as a share of farm business income in Wales

¹⁶ Source: Farm Business Survey Quoted in Statistics Release on Farm Incomes in Wales 2016-2017. Available at: <http://gov.wales/statistics-and-research/farm-incomes/?lang=en>



Source: Farm Business Survey Quoted in Statistics Release on Farm Incomes in Wales 2016-2017.

Note *: subsidies include agri-environment payments and single farm payments.

In general terms, increases to the agricultural cost base will impact on farm income and profitability, but the extent of this cannot be accurately forecast. However, it is reasonable to assume that the greater increase in cost base associated with AWO 2018 when compared to baseline will have more pronounced impacts.

4.8 Consultation

The Panel met to decide whether to propose changes to the 2017 wages order on 9 September. A targeted consultation on their proposals was conducted 28 September – 3 November 2017. The proposals were directly emailed to an extensive list of people and organisations and was made available on the Panel’s web platform. Copies may be requested by contacting the mailbox SLMenquiries@gov.wales or sending a request in writing to Agricultural Wages, Welsh Government Office, Rhodfa Padarn, Llanbadarn Fawr, Aberystwyth, Ceredigion SY23 3UR.

Key stakeholders, including the farming unions, UNITE, agricultural colleges and bodies such as the Association of Labour Providers were included. Panel members were encouraged to share the proposals throughout their networks. The Panel met to discuss the responses to the consultation 19 November and decided to submit their proposals to Welsh Government.

4 responses were received. There was overall support for the proposals but significant discontent from the NFU on the proposed rate rises which they maintained would be difficult to afford for the industry.

4.9 Competition Assessment

See Appendix C.

4.10 Conclusion

Potential costs and benefits for both policy options are considered and compared. However, significant limitations exist across data and

methodology. Specifically, disaggregated up to date data for Wales are not always available and few methodologies exist to demonstrate the relationship between employment, business performance of the agricultural sector and minimum wages. As a result, some impacts cannot be quantified with any degree of accuracy. The quantification was focused on the impact on wage costs/earnings for Grade 1-6 agricultural workers where disaggregated data are most available. However, the distribution by grade of workers was based on Defra study in 2012 which was not Wales specific data. The impact on other categories of workers or the impact of changes in other allowances generally affect very small groups of workers and the impacts are expected to be minimal. Due to lack of detailed data on these groups, the impacts of changes related to them were not estimated. However, the administrative costs to the farmers are estimated for their time to familiarise themselves with and make adjustments in accordance to AWO 2107. It should also be noted that the two policy scenarios are not the full difference between AWO 2017 and 2018; the differences in labour minimum wage rates also take account of the forthcoming changes in NMW and NLW from April 2018.

In terms of the relative increases within the pay structure, the wage rate for Grade 1 workers (aged 25 and above) is set at the NLW level from April 2018. This increase represents a 4% increase from the AWO 1017 rate. The biggest increase is for Grade 2 workers (6% increase from previous year) and there is a 4%-5% increase for all other grades except for Y2 Apprentice (aged 25 and above). It should be noted that the increase in wage rate for Y2 Apprentice (aged 25+) is 7% from the previous year and the absolute rate level (£8.05) is higher than Grade 1 workers (aged 25+).

Potential costs that are additional for Option 2 are summarised as follows:

1. *Employment*: The proposed increases may lead to some less than 20 fewer agricultural jobs in Wales. Reductions in hours worked may take place, but cannot be quantified.
2. *Earnings*: The total transfer could be raised by some £5.5 million per annum. This is the estimate for additional earnings under AWO 2018 also taking account of changes in NMW/NLW from April 2018.
3. *Prices, productivity and profitability*: All else given, this is likely to put downward pressure on farm business profits, but with an unclear effect on productivity. Output price rises enabling margins to be maintained seem unlikely given that the farm businesses are generally price-takers and there is limited pricing power of farm businesses. In terms changes in agricultural outputs, they are more directly affected by broader agricultural market conditions.
4. *Government enforcement*: It is likely that administrative costs accruing to the Welsh Government would be broadly similar under both options as the Welsh Government is already enforcing the AWO regime that has been preserved under the 2014 Act assuming no changes in the volume of case work to investigate each year.

Potential benefits that are additional to Option 2 include:

1. *Earnings:* The proposed minimum wage rate changes are estimated to transfer some £5.5 million per annum to agricultural workers (from employers) (excluding the effects of non-wage labour costs) in terms of their total gross income, with potential impacts throughout the wages distribution associated with the differential minimum wage rates for the different grades.
2. *In-work poverty:* Option 2 would be expected to reduce in-work poverty to some extent (to the extent that the higher hourly wage rates are not offset by reduced hours/employment), with a geographic focus on areas with a higher concentration of agricultural employment. However, this effect varies across businesses and individual labours depending on individual circumstances and decisions.
3. *Training and skills:* Uprating minimum wages throughout the grade structure and for all categories of workers, including apprentices, will provide greater incentives for workers to acquire skills and progress through the grade system. Compared to other industries, as the AWO 2018 minimum wage rates are generally higher than NMW and NLW, it maintains a privilege rate that is not universally enjoyed by other sectors than agriculture. This should help to retain the employment and skills within the agricultural industry. Option 2 would increase wages for all grades in line with previous arrangements under the AWO 2017. It is reasonable to conclude that Option 2 could be more likely to support upskilling within the sector, as well as potentially having a positive impact on efficiency. However, this upskilling benefit is more related to the grade structure itself rather than the pay rates and also depends on the ability of the businesses to pay for further training after the increase in labour costs.

In conclusion, Option 2 provides an established and previously accepted approach to the setting of minimum wages and other aspects of the employment relationship. With wage rates increasing and linked to NMW (for Grade 1 and 2 workers), the AWO 2017 will benefit the waged workforce in terms of increasing earnings and supporting further upskilling within the industry. However, this upskilling benefit is more related to the grade structure itself rather than the pay rates and may be offset to some extent by the pressure from increases in labour costs for farm businesses.

APPENDIX A: Supporting Calculations for Cost and Benefit Estimates

1. Employment Data

Table 7: Persons engaged in work on agricultural holdings, Wales (2016)

Type of Labour	Number of people
Total farmers, partners, directors and spouses: (a)	
Full-time	18,564
Part-time (b)	21,339
Total	39,903
Farm workers:	
Regular full-time (c)	3,783
Regular part-time (b) (c)	3,664
Seasonal or casual workers	6,174
Total farm workers	13,621
Total labour force	53,524

Source: Welsh Government, Welsh Agricultural Statistics, 2016 [online]

<http://gov.wales/statistics-and-research/welsh-agricultural-statistics/?lang=en>

Note:

- (a) Figures are for main and minor holdings.
- (b) Part-time defined as less than 39 hours per week.
- (c) Includes salaried managers.

2. Earnings

Table 8: Persons engaged in work on agricultural holdings, Wales (2016)

Type of labour	No. of people	% composition	
Full-time	Regular full-time farm workers*	3,783	28%
Part-time	Regular part-time farm workers	3,664	27%
Casual	Seasonal or casual workers	6,174	45%
Total waged labour force		13,621	100%

Note: * including salaried managers

Source: Figures for farm workers by type are from Welsh Government, Welsh Agricultural Statistics, 2016 [online] <http://gov.wales/statistics-and-research/welsh-agricultural-statistics/?lang=en>.

Percentages are Authors' calculations based on no. of workers in each category.

Table 9: Profile of workers at each AWO grade (average %), UK (2007-2010)

Grade	Full-time	Part-time (a)	Casual
Grade 1	6%	14%	39%
Grade 2	39%	63%	61%
Grade 3	9%	7%	
Grade 4	30%	11%	
Grade 5	11%	3%	
Grade 6	5%	1%	

Source: Defra Farm Labour and Wage Statistics, 2012. [online] <http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/statistics/files/defra-stats-foodfarm-farmmanage-earnings-labour2012-120627.pdf>, Table 12 on p.13.

Note: (a) Totals do not sum to 100% due to rounding.

Table 10 combines data from Table 8 and Table 9 to provide rough estimates of the number of full time, part-time and casual staff within each grade in Wales using employment data for year 2016.

Table 10: Number of workers at each AWO grade, estimated for Wales 2016(a)

Grade	Full-time	Part-time	Casual
Grade 1	278	513	2,408
Grade 2	1,809	2,308	3,766
Grade 3	417	256	
Grade 4	1,391	403	
Grade 5	510	110	
Grade 6	232	37	
Total	3,783	3,627	6,174

Note: (a) Totals do not add up to 16,700 due to rounding in Table 9.

Table 11 provides Defra's estimates of the average hours worked by full time, part-time and casual staff.

Table 11: Hours worked by worker type per week, UK, 2003 to 2010 average

Worker type	Total hours worked	Basic hours	Overtime hours
full time	45.7	39	6.7
part time (a)	21.3	21.3	0
Casual	29.4	26.5	2.9

Source: Defra Farm Labour and Wage Statistics, 2012. [online] <http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/statistics/files/defra-stats-foodfarm-farmmanage-earnings-labour2012-120627.pdf>, Table 10 on p.12.

Note: (a) Assumed that part-time workers do not work overtime.

Table 13 summarises the number of weeks that each type of workers worked per year.

Table 12: Number of weeks worked per year by different type of employment

Worker type	No. of weeks worked at Basic hours	No. of weeks worked at overtime hours
full time	52	47.6
part time (a)	52	49.2
Casual	10	10

Source: Defra Farm Labour and Wage Statistics, 2012. [online] <http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/statistics/files/defra-stats-foodfarm-farmmanage-earnings-labour2012-120627.pdf>, Table 39 on p.36.

Table 13 provides the agricultural minimum wages set in the AWO 2017 and 2018 for the agricultural industry and the increases in wage rates by grade for both basic and overtime pay.

Table 13: AWO hourly pay rates, 2017 and 2018

Grade or category of worker	Basic pay 2017	Basic pay 2018	Basic pay increase	Overtime pay increase*
Grade 1 work (aged 25+)	£7.83**	£7.83	£0.00	£0.00
Grade 2 worker	£7.83**	£8.29	£0.46	£0.69
Grade 3 worker	£8.22	£8.54	£0.32	£0.48
Grade 4 worker	£8.82	£9.16	£0.34	£0.51
Grade 5 worker	£9.34	£9.70	£0.36	£0.54
Grade 6 worker	£10.09	£10.48	£0.39	£0.59

Source: UK Government, Agricultural Workers' Rights [online] <https://www.gov.uk/agricultural-workers-rights/pay-and-overtime>

Note: * Overtime pay levels are set at 1.5 times of basic rates.

** The rates set at NLW levels from April 2018.

Table 14 combines data in Table 8, Table 10-Table 13 to provide a rough estimate of the additional labour costs per year for Option 2 relative to Option 1 in Wales across all grades for full time, part time and casual workers. The calculations for the additional wages costs were based on the number of workers in each grade by type (full time, part time and casual) multiplied by the increase per hour for the respective grades, the number of hours worked per week and the number of weeks worked per year.

Table 14: Additional labour costs per year for Option 2.

Grade	Full-time (£)		Part-time (£)		Casual (£)		Total (£)
	Basic	Overtime	Basic	Overtime	Basic	Overtime	
1	£0	£0	£0	£0	£0	£0	£0
2	£1,376,343	£324,662	£1,176,080	£0	£459,092	£75,360	£3,411,538
3	£220,951	£52,120	£90,905	£0	£0	£0	£363,976
4	£782,536	£184,591	£151,778	£0	£0	£0	£1,118,905
5	£303,808	£71,665	£43,829	£0	£0	£0	£419,302
6	£149,603	£35,289	£15,827	£0	£0	£0	£200,719
Total (£)	£2,833,242	£668,326	£1,478,419	£0	£459,092	£75,360	£5,514,440

APPENDIX B: Calculations of Employment Effect

Wage elasticity of supply is the grade of influence on the supply of labour caused by a change of wages.

The formula for wage elasticity is: Wage elasticity = change of supply of labour in percentage / change of wage in percentage.

Therefore:

- Change of supply of labour in percentage = wage elasticity * change of wage in percentage;
- Absolute change in labour supply = number of workers * change of supply of labour in percentage (i.e. wage elasticity * change of wage in percentage)

Table 15: Change in labour supply assuming wage elasticity=-0.19

	No. of workers (a)	Wage elasticity (b)	Change of wage in % (c)	Absolute changes in no, of workers (d) (d=a*b*c)
Grade 1 workers	3,148	-0.19	4.00%	-24
Grade 2 workers	7,550	-0.19	6.00%	-86
Grade 3-6 workers	2,923	-0.19	4.00%	-22
Total	-	-	-	-132

Table 16: Change in labour supply assuming wage elasticity=-0.03

	No. of workers (a)	Wage elasticity (b)	Change of wage in % (c)	Absolute changes in no, of workers (d) (d=a*b*c)
Grade 1 workers	3,148	-0.03	4.00%	-4
Grade 2 workers	7,550	-0.03	6.00%	-14
Grade 3-6 workers	2,923	-0.03	4.00%	-3
Total	-	-	-	-21

APPENDIX C: The Competition Assessment

Answers to the competition filter test

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

Annex 1 - The Panel's consultation letter

Agricultural Advisory Panel for Wales

Dear Consultee

The Agricultural Sector (Wales) Act 2014 established the Agricultural Advisory Panel for Wales. One of its key responsibilities is "to prepare agricultural wages orders in draft, consulting on such orders and submitting them to Ministers for approval".

As Chair of the Panel I am writing to ask for your views on the Panel's proposed changes to the terms and conditions for agricultural workers, to be included in the Agricultural Wages Order 2018. Decisions on these proposals were made at the Panel's meeting on 19 September and are listed below.

The Panel proposes that the minimum rates of pay for agricultural workers should be increased as follows:

Grade 1 under 16	£3.47
age 16-24	£7.34
Grade 1 25 +	£7.80
Grade 2	£8.29
Grade 3	£8.54
Grade 4	£9.16
Grade 5	£9.70
Grade 6	£10.48

Apprentice rates to be raised as follows

Year 1	£3.93
Year 2 (16.17)	£4.21
Year 2 (18-20)	£5.82
Year 2 (21-24)	£7.35
Year 2 (25+)	£8.05

Other proposals

Dog allowance:	£8.02
Night work:	£1.52 per hour of night work
Birth and adoption grant:	£63.09 for each child

No other changes are proposed at this stage.

I should be grateful for your comments on these proposals before 3 November so that the Panel may submit our advice to Ministers as required by the Agricultural Sector (Wales) Act 2014.

Thank you in advance for your input.

Please respond to the Panel Manager (Paula Whitfield) in writing at the address below or by email to: SLMenquires@wales.gsi.gov.uk or paula.whitfield@gov.wales

Paula Whitfield
Agricultural Advisory Panel Manager
Welsh Government
Rhodfa Padarn
Llanbadarn Fawr
Aberystwyth
SY23 3UR

Yours sincerely

Lionel Walford

Annex 2 - List of those consulted by the Panel on their proposal

British Pakistan Foundation
BVSNW - Black Voluntary Sector Network Wales
Diverse Cymru
CTP International
BENNW - Black Environment Network
Gofal Cymru
Race Council Cymru
Race equality first
North Wales Regional Equality Network (NWREN)
South East Wales Race Equality Council (SEWREC)

Religion

Muslim Council of Wales
The Jewish Leadership Council
Cafod
Baha'i Council in Wales
British Humanist Association
Evangelical Alliance Wales
Welsh Refugee Council
The Church in Wales
CYTUN
The inter faith council for wales

Welsh language

Merched Y Wawr
Welsh language commissioner

Youth Children's Rights

Contact The Campaign for the Children and Young People Assembly
for Wales
National Youth Agency
Plant yng nghymru - Children in Wales
UK Youth
Council for Wales voluntary Youth Services
Wales Council for Voluntary Youth Action
Youth United Foundation
Action for Children
British Youth Council
Anabledd Dysgu Cymru/Learning Disability Wales
Childrens commissioner wales
YFC Wales

Businesses

Associated British Ports
Atkins Global
BAM Nuttall Ltd
British Water
Canal and Rivers Trust

Chartered Institute of Housing
Clee Tompkinson and Francis
Coal Authority
Common Vision
Community Housing Cymru
Community land advice
Confederation of British Industry
Constructing Excellence in Wales
Crown Estate
Denbighshire County Council
DM Property consultats
Dwr Cymru
Dwr Cymru
ehlaw
Energy Savings Trust
Ffos Las Racecourse
Fjord Horse
Freightliner
Friends of the Earth Cymru
Landscape Institute
Llanishen Reservoir Action Group
Lloyds Bank PLC
Mid & West Wales Fire and Rescue Service
Mineral Products Association
MOD
National Sewerage Association
OFTEC
Oil Firing Technical Association Ltd (OFTEC)
RICS Wales
Royal Town Planning Institute
Scottish Government
Seven Rivers Trust
The Oil Specialists
Tir Enterprises
United Utilities
University of Bangor
Welsh Local Government Association
Coleg Sir Gar
Coleg Cambria
Edward Perkins Chartered Surveyors
IOSH (Institute of Occupational Safety and health)
TCS Management
Country land and business association

Disabilities

Disability Wales
Action on hearing Loss

All Wales People First
Cardiff & Vale Coalition of Disabled People
British Deaf Association Wales
Leonard Cheshire Trust
British Dyslexia Association
Disability Advice Project (Torfaen)
Communication Matters
Disability Powys
DiverseCymru
Employers Forum on Disability
Equality and Human Rights Commission
Epilepsy Wales
Learning Disability Wales
Mind Cymru
North Wales Deaf Association
Wales Council for Deaf People
Swansea disability forum
Scope
Disability Arts Cymru
Gofal Cymru
Mencap Cymru
National Deaf Childrens Society Wales
North Wales Deaf Association
RNIB
Wales council for the Blind

Gender/sexuality

LGBT Consortium
A:Gender
Unique Transgender network
Stonewall Cymru
Unity Group Wales

Women

Career Women Wales
Chwarae Teg
UNIFEM in Wales
BAWSO
Mewn Cymru
Wales resource centre for women in science, engineering and technology
Welsh assembly of women
Welsh womens aid
Women connect first
Women on Boards
Cymorth I Ferched Cymru Welsh Womens Aid
Women in Wales
WEN Wales

North Wales Womens Network
Womens Food and Farming Union
Wales Women in Agriculture Forum (through Menter a Busnes)
Women in property
Womens engineering society
WiRE (Women in rural enterprise)

Elderley

Age cymru
Older Peoples commissioner for wales
Age concern cardiff

Poverty

Joseph Rowntree Foundation
Bevan Foundation
National Energy Action Wales

General

Workplace Report Magazine
Oxfam Cymru
Participation cymru
WRAP Wellness Recovery Action Plan
Equality and Human Rights Commission
British Red Cross South Wales
BTCV - British Trust for Conservation Volunteers
Carers Wales / Cynhalwyr Cymru
CATCH-UP - Co-operative Action to Change & Hurry Up Progress
CCF - Cardiff Communities First
MENFA - Mentoring for All
LDW - Learning Disability Wales
Journey - Depression Alliance Cymru
Duffryn Community Link
SOVA - Supporting Others Through Volunteering Action

Agriculture

Defra
Dept for BIS
Devons Cattle Society
Dyfi Biosphere
Elan Valley Trust
Environment Agency
Eryri National Park
Farming and Countryside Education
Forest Research
Forestry Commission Wales
Future Farmers
FUW
FUW
FWAG

Horticulture Wales
HSBC Agriculture
Hybu Cig Cymru/Meat Promotion Wales
IBERS
IBERS
Institute of Chartered Foresters
Landex (Land Based Colleges Aspiring to Excellence)
Lantra
Llais Y Goedwig
Maelor Forest Nurseries Ltd
Menter a Busnes
Menter Mon
National Beef Association
Natural Resources Wales
National Trust
NFU Cymru
NFU
NFU Mutual Senior Agent
NPTC College Group
OCW
Pembrokeshire Coast
Pembrokeshire NPA
PINS
Powys County Council
RHSMR Mottershead
RSPB
RWAS
Santander
Sustainable Farming Consultant
TFA
Unite Union
Visit Wales
Wales Environment Link
Wales Wildlife and Countryside Trust
Water Regulations Advisory Service
Wales Rural Observatory
Wales Tourism Alliance
Watts and Morgan
Welsh Black Cattle Society
Welsh Lamb and Beef Promotions
West Wales European Centre
Wildfowl and Wetlands Trust
Wildlife Trusts Wales
WLGA
WWF Cymru
Wye and Usk Foundation

Whittingham Riddell
Lusitanos
Farmers Welsh lavender Ltd
Aberdeen Angus Cattle Society
ADAS
Agricultural Business
APHA
Archaeological Trust
Association of National Parks
Brecknock Wildlife Trust
Brecon Beacons National Park
British Blonde Society
British Blue cattle Society
British Limousin Cattle Society
British Simmental Cattle Society
British Veteran Association
Brown Swiss cattle society
BWW Management Planner Forum
CAAV
CADW
Campaign for the Protection of Rural Wales
Carmarthen Bay and Estuaries
Carmarthen Rivers Trust
CBI
CCFG (Continuous Cover Forestry Group)
Celtic Ecology
Centre for Alternative Technology
CLA
Coastal Zone and Marine Environment Research Unit
Country Land and Business Association
Cynnal Cymru
DARDNI
Dartmoor Society
Dairy Co
Dairy Development Centre (DDC)
Dairy Strategy group
DEFRA
Dept for BIS
Devons Cattle Society
Dyfi Biosphere
Elan Valley Trust
Environment Agency
Eryri National Park
Farming and Countryside Education
Forest Research
Forestry Commission Wales

Future farmers
FUW
FWAG
Horticulture Wales
HSBC Agriculture
Hybu Cig Cymru/Meat Promotion Wales
IBERS
Institute of chartered foresters
Landex (Land based colleges aspiring to excellence)
Lantra
Llais Y Goedwig
Maelor Forest Nurseries Ltd
Mentor a busnes
Menter Mon
National beef Association
Natural Resources Wales
National Trust
NFU Cymru
NFU Mutual Senior Agent
NPTC College Group
OCW
Pembrokeshire Coast
Pembrokeshire NPA
PINS
Powys County Council
Public health Wales
RHSMR Mottershead
RSPB
RWAS
Santander
Sustainable Farming Consultant
TFA
UNITE
Visit Wales
Wales Environment Link
Wales Wildlife and Countryside Trust
Water Regulations Advisory Scheme
Wales Rural Observatory
Wales Tourism Alliance
Watts and Morgan
Welsh black Cattle society
Welsh lamb and Beef Promotions
West Wales European centre
Wildfowl and Wetlands Trust
Wildlife Trust Wales
WLGA

WWF Cymru
Wye and Usk Foundation
Whittingham Riddell
Lusitanos
Focus on Labour Exploitation (FLEX)
Recruitment and Employment Confederation (REC)
The Association of Professional Staffing Companies (APSCo)
The Freelancer and Contractor Services Association (FCSA)
Resolution Foundation (RF)
Centre for Social Justice (CSJ)
UNISON
Association of Labour Providers (ALP)
Confederation of Business Industry (CBI)
British Retail Consortium (BRC)
Joseph Rowntree Foundation (JRF)
Federation of Small Businesses (FSB)
Trades Union Congress (TUC)



Ein cyf/Our ref MA-L/LG/0121/18

Elin Jones AC
Y Llywydd
Cynulliad Cenedlaethol Cymru

29 Mawrth 2018

Annwyl Elin,

Gorchymyn Cyflogau Amaethyddol (Cymru) 2018

Yn unol â'r canllawiau, rwyf yn eich hysbysu, yn unol ag adran 11A(4) o Ddeddf Offerynnau Statudol 1946, fel y'i mewnosodwyd gan baragraff 3 o Atodlen 10 i Ddeddf Llywodraeth Cymru 2006, y bydd y rheol 21 diwrnod yn cael ei thorri wrth gyflwyno'r Gorchymyn uchod. Amgaeir y Memorandwm Esboniadol er gwybodaeth ichi.

Y Cefndir

Sefydlwyd y Panel Cyngori ar Amaethyddiaeth (y Panel) ar 1 Ebrill 2016 o dan Ddeddf Sector Amaethyddol (Cymru) 2014. Mae cylch gwaith y Panel yn cynnwys adolygu cyflogau ac amodau cyflogaeth eraill a hefyd gefnogi gwaith i feithrin sgiliau a datblygu gyrfa yn y sector amaethyddol.

Ar hyn o bryd mae gweithwyr amaethyddol yng Nghymru yn ddarostyngedig i'r cyfraddau a bennir gan Orchymyn Cyflogau Amaethyddol (Cymru) 2017.

Penderfynodd y Panel gynyddu cyflogau ar gyfer gweithwyr amaethyddol ac ymgynghorodd am y cynigion yn ystod hydref 2017. Roedd amserlen wreiddiol y Panel yn cynnig bod y Gorchymyn newydd yn dod i rym ar 1 Ebrill, sef y dyddiad y bydd y cynnydd i Gyflog Byw Cenedlaethol y DU a'r Isafswm Cyflog Cenedlaethol yn cael ei weithredu. Bydd cyfraddau cyflog newydd ar gyfer gweithwyr amaethyddol yn yr Alban a Gogledd Iwerddon yn dod i rym ar y diwrnod hwnnw hefyd. Nod y Panel yw sicrhau bod y cynnydd yn isafswm cyflog

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Jane.Hutt@llyw.cymru
Correspondence.Jane.Hutt@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

gweithwyr amaethyddol yn cyd-fynd â'r newidiadau i'r Cyflog Byw Cenedlaethol a'r Isafswm Cyflog Cenedlaethol.

Cyhoeddwyd codiadau uwch na'r disgwyl i gyfraddau'r Cyflog Byw Cenedlaethol/Isafswm Cyflog Cenedlaethol ddiwedd mis Tachwedd. Roedd hynny'n golygu bod angen ailedrych ar y cyfraddau lleiaf y bwriedid eu cynnwys yn Neddf Cyflogau Amaethyddol 2018. Er ein bod wedi gwneud pob ymdrech i weithredu ar fyrder ni fu unrhyw gyfaddawdu o safbwynt ystyriaeth.

Hyd nes y daw Gorchymyn Cyflogau Amaethyddol (Cymru) 2018 i rym, ni fydd gweithwyr amaethyddol yng Nghymru yn cael y codiad arfaethedig i'r cyfraddau lleiaf nac ychwaith y cynnydd arfaethedig i rai lwfansau.

Er mwyn sicrhau bod hyn yn amharu cyn lleied â phosibl ar bobl, ac er mwyn sicrhau hefyd fod gweithwyr yn cael eu talu yn unol â'r cyfraddau a gynigir gan y Panel Cyngori ar Amaethyddiaeth, cynigir bod yr Offeryn Statudol yn torri'r rheol 21 diwrnod.

Bydd torri'r rheol 21 diwrnod yn sicrhau cyn lleied o oedi â phosibl wrth gyflwyno'r cyfraddau cyflog newydd y cytunwyd arnynt a bydd hefyd yn sicrhau amodau cyflogaeth teg a thâl teg i weithwyr amaethyddol yng Nghymru. Bernir bod angen torri'r rheol 21 diwrnod a bod modd cyfiawnhau hynny yn yr achos hwn oherwydd y bydd yn lleihau'r oedi o ran cynyddu'r cyfraddau lleiaf ar gyfer cyflogau gweithwyr amaethyddol ac o ran cynyddu cyfraddau rhai lwfansau.

Byddai unrhyw oedi yn cosbi'r gweithwyr amaethyddol hynny a fyddai'n cael cyfraddau tâl is nag y byddent wedi disgwyl eu cael o 1 Ebrill 2018 ymlaen.

Mae Memorandwm Esboniadol wedi'i baratoi, ac fe'i gosodwyd ef a'r Gorchymyn wedi'i gosod yn y Swyddfa Gyflwyno.

Mae copi o'r llythyr hwn yn cael ei anfon at Mick Antoniw AC, Cadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ac at Chris Warner, Pennaeth Gwasanaeth y Pwyllgorau Polisi a Deddfwriaeth.

Yr eiddoch yn gywir,



Julie James AC/AM

Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

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Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Eich.cyf / Your ref :

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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SL(5)208 - Gorchymyn Cyflogau Amaethyddol (Cymru) 2018

Cefndir a Diben

Mae Gorchymyn Cyflogau Amaethyddol (Cymru) 2018 ("Gorchymyn 2018") yn gwneud darpariaeth ynghylch y cyfraddau tâl isaf a'r telerau a'r amodau cyflogaeth eraill i weithwyr amaethyddol.

Mae Gorchymyn 2018 yn dirymu ac yn disodli Gorchymyn Cyflogau Amaethyddol (Cymru) 2017 ("Gorchymyn 2017") gyda newidiadau sy'n cynyddu lefelau cyflog 2017 ar gyfer gweithwyr amaethyddol.

Y weithdrefn

Negyddol.

Materion technegol: craffu

Nodwyd dau bwnt i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.2(v) - mae angen eglurhad pellach ar ystyr yr offeryn.

Yn gryno, mae erthygl 15(1) yn dweud, pan fo cyflogwr yn darparu tŷ i weithiwr amaethyddol, caiff y cyflogwr dynnu'r swm o £1.50 oddi ar isafswm cyflog y gweithiwr amaethyddol.

Yn gryno, mae erthygl 15(2) yn dweud, pan fo cyflogwr yn darparu "llety arall" i weithiwr amaethyddol, caiff y cyflogwr dynnu'r swm o £4.82 oddi ar isafswm cyflog y gweithiwr amaethyddol.

Ymddengys fod didyniad o £4.82 yr awr yn ddiidyniad mawr iawn o ystyried y cyfraddau fesul awr sy'n berthnasol i weithwyr amaethyddol. Felly, byddem yn gwerthfawrogi: (1) cadarnhad o p'un a yw ein dealltwriaeth o erthyglau 15(1) a 15(2) yn gywir, a (2) rhagor o wybodaeth am ddarparu "llety arall" a'r didyniad a ganiateir o dan erthygl 15(2).

2. Rheol Sefydlog 21.2(vii) – ymddengys fod anghysondeb rhwng ystyr y testun Cymraeg a'r testun Saesneg.

Mae Erthygl 43(2) yn y Gymraeg yn gwneud trefniadau trosiannol ar gyfer "gweithiwr amaethyddol a gyflogir fel gweithiwr ar Radd neu fel prentis ond nid fel gweithiwr hyblyg".

Mae Erthygl 43(2) yn y Saesneg yn gwneud trefniadau trosiannol ar gyfer "gweithiwr amaethyddol a gyflogir fel gweithiwr ar Radd neu fel prentis". Felly, yn y Saesneg nid oes sôn am weithwyr hyblyg.

Craffu ar y rhinweddau

Nodir un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.3(ii) – mae'r offeryn o bwysigrwydd gwleidyddol neu gyfreithiol neu mae'n codi materion polisi cyhoeddus sy'n debygol o fod o ddiddordeb i'r Cynulliad.

Byddem yn croesawu eglurhad ynghylch pam na wnaed y Gorchymyn 2018 hwn tan 27 Mawrth 2018 ac na chafodd ei osod tan ar ôl 16.00 ar 29 Mawrth 2018 (Dydd Iau'r Gofid), yn enwedig o gofio ei ddyddiad dod i rym ar 1 Ebrill 2018 (Dydd Sul y Pasg).



Nodwn y cynhaliwyd ymgynghoriad yn ystod hydref 2017, ac y cafodd y newidiadau yn y cyfraddau cyflogau sylfaenol a byw cenedlaethol eu gwneud ddiwedd mis Tachwedd 2017 a arweiniodd at adolygiad. Byddem yn croesawu eglurhad ynghylch pam y cymerodd dros bedwar mis i adlewyrchu'r adolygiad mewn Gorchymyn terfynol 2018.

Byddem hefyd yn croesawu eglurhad ynghylch pam na chawsom ein hysbysu'n ffurfiol cyn y problemau gyda'r Gorchymyn hwn o ystyried bod torri'r rheol 21 diwrnod wedi digwydd ar 9 Mawrth 2018.

Yn ogystal â materion o ran amseru a chyfathrebu, teimlwn hefyd yr angen i fynegi'r pryder hwn oherwydd bod gorchymyn y llynedd (h.y. Gorchymyn 2017) hefyd wedi torri'r rheol 21 diwrnod, pan gafodd ei wneud ar 2 Tachwedd 2017 ac y daeth i rym ar 3 Tachwedd 2017.

Y goblygiadau yn sgil ymadael â'r Undeb Ewropeaidd

Ni nodir unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

12 Ebrill 2018



Y Gwir Anrhydeddus Carwyn Jones AC
Y Prif Weinidog

17 Ebrill 2018

Annwyl Brif Weinidog

Craffu ar reoliadau a wnaed o dan Fil yr Undeb Ewropeaidd (Ymadael)

Ysgrifennaf mewn perthynas ag adroddiad diweddar y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ("yr adroddiad") ar **Graffu ar reoliadau a wnaed o dan Fil yr Undeb Ewropeaidd (Ymadael)** ("y Bil").

Yn benodol, hoffwn godi materion yn ymwneud â'ch llythyr at yr Ysgrifennydd Gwladol dyddiedig 5 Chwefror; y ddatl yn y Cyfarfod Llawn ar yr adroddiad ar 7 Mawrth, yr ymateb ffurfiol i'r adroddiad gan Arweinydd y Tŷ a'r Prif Chwip dyddiedig 27 Mawrth, a'ch llythyr dyddiedig 29 Mawrth at Ysgrifennydd Gwladol Cymru sy'n ymwneud â'r adroddiad ar y Bil a darpariaethau ei bwyllgor sifftio.

Byddwch yn ymwybodol bod ein hymchwiliad a'r adroddiad dilynol yn ystyried pa mor briodol yw cwmpas a natur y pwerau dirprwyedig a ddarperir yn y Bil i Weinidogion y DU a Chymru, a'r gweithdrefnau i'w defnyddio i graffu ar y ddeddfwriaeth ddirprwyedig honno. O ystyried taith y Bil drwy Dŷ'r Arglwyddi, roedd yr adroddiad yn canolbwyntio ar welliannau y credem y dylid eu gwneud i'r Bil, ac yn mynd i'r afael â chwestiynau a godwyd gan yr Ysgrifennydd Gwladol mewn llythyr at y Llywydd ar 16 Ionawr.

Gwnaeth ein hadroddiad saith argymhelliad, pedwar ohonynt yn argymell gwelliannau i'r Bil. Am y rheswm hwnnw, credem ei fod yn briodol gofyn barn y Cynulliad Cenedlaethol ar yr argymhellion hynny, ac roedd y cynnig yn gofyn i'r Cynulliad Cenedlaethol nodi adroddiad y pwyllgor hefyd yn gofyn iddo gymeradwyo argymhellion 1, 2, 4 a 7.



Ar 7 Mawrth, derbyniwyd y cynnig yn ddiwrthwynebiad a rhoddodd y Cynulliad Cenedlaethol gefnogaeth unfrydol i'r argymhellion hynny. O ganlyniad, ar 22 Mawrth, ysgrifennodd y Llywydd at Ysgrifennydd Gwladol Cymru gan dynnu ei sylw at yr argymhellion hynny a gofyn iddo dderbyn y llythyr fel hysbysiad ffurfiol o safbwynt Cynulliad Cenedlaethol Cymru o ran pa welliannau y dylid eu gwneud i'r Bil mewn perthynas â gweithdrefnau ar gyfer craffu ar is-ddeddfwriaeth a wnaed o dan ei ddarpariaethau.

Yn wyneb y digwyddiadau a'r ohebiaeth yr wyf yn cyfeirio atynt uchod, hoffwn ofyn am eglurhad gennych am y rhesymau dros yr ymagwedd y mae Llywodraeth Cymru wedi'i mabwysiadu. Yn benodol, byddwn yn ddiolchgar pe gallech esbonio pam, ar ôl i chi ddweud yn eich llythyr at yr Ysgrifennydd Gwladol ar 5 Chwefror mai'r Cynulliad Cenedlaethol oedd i benderfynu ar faterion yn ymwneud â'r pwyllgor sifftio, y gwnaethoch ysgrifennu at Ysgrifennydd Gwladol Cymru wedyn ar 29 Mawrth yn gwrthod argymhelliad a gymeradwywyd gan y Cynulliad Cenedlaethol ynglŷn â gweithrediad y pwyllgor sifftio hwnnw. Roedd y gymeradwyaeth honno gan y Cynulliad Cenedlaethol yn unfrydol ac yn cynnwys cefnogaeth gan Lywodraeth Cymru.

Rwy'n cydnabod bod Arweinydd y Tŷ wedi dweud wrth y Cynulliad Cenedlaethol yn ystod y ddadl yn y Cyfarfod Llawn nad yw Llywodraeth Cymru am fynegi ei safbwynt ar argymhelliad 2 nes ei bod wedi ystyried y mater yn drylwyr. Fodd bynnag, nid oedd Arweinydd y Tŷ wedi gofyn am ddiwygio'r cynnig i adlewyrchu'r safbwynt hwnnw, a gafodd, fel y nodwyd yn flaenorol, ei gymeradwyo'n unfrydol.

Heb niweidio ewyllys unrhyw Lywodraeth, ni ddylai Cynulliad Cenedlaethol Cymru ganfod ei hun mewn sefyllfa lle mae'n mynegi safbwynt hollbleidiol, ffurfiol sydd wedi hynny, ac yn fuan iawn wedyn, yn destun amheuaeth mewn gohebiaeth nad yw'r Cynulliad yn ymwybodol ohoni. Fel y byddwch yn gwerthfawrogi, fel pwyllgor, yr ydym yn bryderus yn gyffredinol ynglŷn â throsglwyddo pŵer o ddeddfwrfeydd i adrannau gweithredol. Mae'r ymagwedd y mae Llywodraeth Cymru wedi'i mabwysiadu ar y materion hyn yn tanseilio hawl y ddeddfwrfa.

Edrychaf ymlaen at glywed gennych cyn gynted â phosibl. Rwy'n ysgrifennu at y Llywydd ar wahân ynglŷn â'r mater hwn.



Mae copi o'r llythyr hwn yn cael ei anfon at Julie James AC, Arweinydd y Tŷ a'r Prif Chwip;

Yn gywir,

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw

Cadeirydd

Croesewir gohebiaeth yn Gymraeg neu'n Saesneg.

We welcome correspondence in Welsh or English.



Elin Jones AC
Y Llywydd

17 Ebrill 2018

Annwyl Lywydd,

Craffu ar reoliadau a wnaed o dan Fil yr Undeb Ewropeaidd (Ymadael)

Amgaeaf gopi o lythyr yr wyf wedi'i anfon at y Prif Weinidog heddiw ynglŷn â phenderfyniad y Cynulliad Cenedlaethol ar 7 Mawrth i gymeradwyo argymhellion 1, 2, 4 a 7 yn adroddiad diweddar y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ("yr adroddiad") ar **Graffu ar reoliadau a wnaed o dan Fil yr Undeb Ewropeaidd (Ymadael)** ("y Bil"). Fe wnaethoch ysgrifennu at yr Ysgrifennydd Gwladol ar 22 Mawrth yn rhoi gwybod iddo am benderfyniad y Cynulliad.

Mae ein pryderon wedi codi o ganlyniad i lythyrau'r Prif Weinidog at yr Ysgrifennydd Gwladol dyddiedig 5 Chwefror a 29 Mawrth, yn ogystal â'r ymateb ffurfiol i'r adroddiad gan Arweinydd y Tŷ a'r Prif Chwip, dyddiedig 27 Mawrth. Er hwylustod, gellir dod o hyd i'r ohebiaeth y cyfeirir ati fel atodiadau i'r llythyr hwn.

Rydym o'r farn bod y materion a amlinellir yn y llythyr at y Prif Weinidog yn codi pryderon cyfansoddiadol difrifol, gan ei bod yn ymddangos bod hawl y ddeddfwrfa yn cael ei thanseilio. Dyna pam y credaf ei bod yn briodol dod â'r ohebiaeth hon i'ch sylw.

Yn gywir,



Mick Antoniw

Cadeirydd

Croesewir gohebiaeth yn Gymraeg neu'n Saesneg.

We welcome correspondence in Welsh or English



Y Gwir Anrhydeddus Carwyn Jones AC
Y Prif Weinidog

17 Ebrill 2018

Annwyl Brif Weinidog

Craffu ar reoliadau a wnaed o dan Fil yr Undeb Ewropeaidd (Ymadael)

Ysgrifennaf mewn perthynas ag adroddiad diweddar y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ("yr adroddiad") ar **Graffu ar reoliadau a wnaed o dan Fil yr Undeb Ewropeaidd (Ymadael)** ("y Bil").

Yn benodol, hoffwn godi materion yn ymwneud â'ch llythyr at yr Ysgrifennydd Gwladol dyddiedig 5 Chwefror; y ddadl yn y Cyfarfod Llawn ar yr adroddiad ar 7 Mawrth, yr ymateb ffurfiol i'r adroddiad gan Arweinydd y Tŷ a'r Prif Chwip dyddiedig 27 Mawrth, a'ch llythyr dyddiedig 29 Mawrth at Ysgrifennydd Gwladol Cymru sy'n ymwneud â'r adroddiad ar y Bil a darpariaethau ei bwyllgor sifftio.

Byddwch yn ymwybodol bod ein hymchwiliad a'r adroddiad dilynol yn ystyried pa mor briodol yw cwmpas a natur y pwerau dirprwyedig a ddarperir yn y Bil i Weinidogion y DU a Chymru, a'r gweithdrefnau i'w defnyddio i graffu ar y ddeddfwriaeth ddirprwyedig honno. O ystyried taith y Bil drwy Dŷ'r Arglwyddi, roedd yr adroddiad yn canolbwyntio ar welliannau y credwn y dylid eu gwneud i'r Bil, ac yn mynd i'r afael â chwestiynau a godwyd gan yr Ysgrifennydd Gwladol mewn llythyr at y Llywydd ar 16 Ionawr.

Gwnaeth ein hadroddiad saith argymhelliad, pedwar ohonynt yn argymhell gwelliannau i'r Bil. Am y rheswm hwnnw, credem ei fod yn briodol gofyn barn y Cynulliad Cenedlaethol ar yr argymhellion hynny, ac roedd y cynnig yn gofyn i'r Cynulliad Cenedlaethol nodi adroddiad y pwyllgor hefyd yn gofyn iddo gymeradwyo argymhellion 1, 2, 4 a 7.



Ar 7 Mawrth, derbyniwyd y cynnig yn ddiwrthwynebiad a rhoddodd y Cynulliad Cenedlaethol gefnogaeth unfrydol i'r argymhellion hynny. O ganlyniad, ar 22 Mawrth, ysgrifennodd y Llywydd at Ysgrifennydd Gwladol Cymru gan dynnu ei sylw at yr argymhellion hynny a gofyn iddo dderbyn y llythyr fel hysbysiad ffurfiol o safbwynt Cynulliad Cenedlaethol Cymru ar ba welliannau y dylid eu gwneud i'r Bil mewn perthynas â gweithdrefnau ar gyfer craffu ar is-ddeddfwriaeth a wnaed o dan ei ddarpariaethau.

Yn wyneb y digwyddiadau a'r ohebiaeth yr wyf yn cyfeirio atynt uchod, hoffwn ofyn am eglurhad gennych am y rhesymau dros yr ymagwedd y mae Llywodraeth Cymru wedi'i mabwysiadu. Yn benodol, byddwn yn ddiolchgar pe gallech esbonio pam, ar ôl i chi ddweud yn eich llythyr at yr Ysgrifennydd Gwladol ar 5 Chwefror mai'r Cynulliad Cenedlaethol oedd i benderfynu ar faterion yn ymwneud â'r pwyllgor sifftio, y gwnaethoch ysgrifennu at Ysgrifennydd Gwladol Cymru wedyn ar 29 Mawrth yn gwrthod argymhelliad a gymeradwywyd gan y Cynulliad Cenedlaethol ynglŷn â gweithrediad y pwyllgor sifftio hwnnw. Roedd y gymeradwyaeth honno gan y Cynulliad Cenedlaethol yn unfrydol ac yn cynnwys cefnogaeth gan Lywodraeth Cymru.

Rwy'n cydnabod bod Arweinydd y Tŷ wedi dweud wrth y Cynulliad Cenedlaethol yn ystod y ddadl yn y Cyfarfod Llawn nad yw Llywodraeth Cymru am fynegi ei safbwynt ar argymhelliad 2 nes ei bod wedi ystyried y mater yn drylwyr. Fodd bynnag, nid oedd Arweinydd y Tŷ wedi gofyn am ddiwygio'r cynnig i adlewyrchu'r sefyllfa honno, a gafodd, fel y nodwyd yn flaenorol, gymeradwyaeth unfrydol.

Heb niweidio ewyllys unrhyw Lywodraeth, ni ddylai Cynulliad Cenedlaethol Cymru ganfod ei hun mewn sefyllfa lle mae'n mynegi safbwynt hollbleidiol, ffurfiol sydd wedi hynny, ac yn fuan iawn wedyn, yn destun amheuaeth mewn gohebiaeth nad yw'r Cynulliad yn ymwybodol ohoni. Fel y byddwch yn gwerthfawrogi, fel pwyllgor, yr ydym yn bryderus yn gyffredinol ynglŷn â throsglwyddo pŵer o ddeddfwrfeydd i adrannau gweithredol. Mae'r ymagwedd y mae Llywodraeth Cymru wedi'i mabwysiadu ar y materion hyn yn tanseilio hawl y ddeddfwrfa.

Edrychaf ymlaen at glywed gennych cyn gynted â phosibl. Rwy'n ysgrifennu at y Llywydd ar wahân ynglŷn â'r mater hwn.



Mae copi o'r llythyr hwn yn cael ei anfon at Julie James AC, Arweinydd y Tŷ a'r Prif Chwip;

Yn gywir,

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw

Cadeirydd

Croesewir gohebiaeth yn Gymraeg neu'n Saesneg.

We welcome correspondence in Welsh or English.





Ein cyf/Our ref: MA-L/FM/0044/18

Rt Hon Alun Cairns MP
Secretary of State for Wales
Gwydyr House
London
SW1A 2NP

5th February 2018

Dear Alun

I am writing in response to your letter of 16 January, in respect of the European Union (Withdrawal) Bill.

I was very disappointed that there were no agreed amendments to Clause 11 during Commons consideration, but I note your commitment to bring forward amendments in the House of Lords. It is of course essential that these amendments are agreed with the Welsh and Scottish Governments, and I know that discussions at official level are continuing.

I also note the Government amendments to clauses 7 and 10. I welcome the replacement of the requirement for consent of UK Ministers with a requirement for consultation in relation to the powers in clause 7, although I note that the same amendment has not been made in clauses 8 and 9, and I am not clear about the reasoning for the retention of these restrictions. (I am in any event aware of the House of Lords Constitution Committee's recommendation that clause 9 be omitted from the Bill). I also welcome the amendments enabling Welsh Ministers to modify directly applicable EU law in areas of devolved competence, although I also note they are based on an assumption that Clause 11 will continue in its current form, which will not be acceptable to the Welsh Government or to the Assembly; the official level discussions must produce a better solution.

I have considered the specific questions in your letter in respect of the Committee stage amendments of the Bill. In respect of the statutory requirement to produce explanatory material alongside SIs made under the relevant powers in Schedule 2 of the Bill, the information envisaged to be included in the statements is material that we would expect to provide in any event. I therefore have no strong view as to whether such a requirement should be placed on the face of the Bill; but I am aware that the Constitution Committee has made further recommendations about the content of supportive explanatory material. If the UK Government is minded to accept these, I will need to consider the Welsh position afresh. I would be grateful to be kept informed of your developing thinking in respect of that

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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recommendation, and in respect of the applicability of the requirements to SIs made under the joint procedure.

In respect of the requirement to submit negative resolution SIs to a 'sifting' committee, I consider that this is properly a matter for the National Assembly for Wales to determine, as is the applicability of this requirement to SIs made under the joint procedure.

In respect of the "made affirmative" procedure, our view is that in principle this should be available to Welsh Ministers and the Assembly, to match the flexibility available to UK Ministers.

Finally, our officials have also been discussing the correction of deficiencies in the Government of Wales Act 2006. I welcome the commitment to use Orders in Council to make correcting amendments which fall outside competence. I have considered the various means by which the small number of deficiencies which are within our competence might be corrected, and I believe the best solution in this case would be for the corrections to be made by the Withdrawal Bill. I have asked my officials to work with yours to develop the necessary amendments.

I am copying this to the Presiding Officer, the Chair of the Assembly's External Affairs and Additional Legislation Committee, the Chair of the Assembly's Constitutional and Legislative Affairs Committee and to the Chair of the Welsh Affairs Committee in Parliament.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carwyn Jones', written in a cursive style.

CARWYN JONES



Rt Hon Alun Cairns MP
Secretary of State for Wales
Gwydyr House
London
SW1A 2NP

29th March 2018

Dear Alun

I am writing in response to your letter of 16 March 2018 about changes to the European Union (Withdrawal) Bill. I note the summary of the changes you intend to make to the Bill at Lords Report, and the progress in respect of other matters, including the correction of within competence deficiencies in the Government of Wales Act 2006, the correction to the technical standards reservation, and your proposal in respect of enhanced explanatory material.

You raise a specific question in respect of the 'sifting committee' provisions, with reference to the recommendation of the Constitutional and Legislative Affairs Committee that the provisions should apply to instruments laid before the Assembly, and that the sifting committee's recommendation on the appropriate procedure should be binding. The Welsh Government's view is that it would be appropriate for the sifting committee provisions as set out in the Bill to apply to instruments laid before the Assembly.

However, we are not persuaded that the recommendation made by the sifting committee should be binding. It is right that the exercise of delegated powers should be subject to appropriate and proportionate scrutiny and I expect that in the vast majority of cases Welsh Ministers will accept the recommendation of the sifting committee. However, there may be situations where – for reasons of urgency – Welsh Ministers will need to act more quickly than the affirmative procedure provides for, and it is essential the government retains the flexibility to do so, notwithstanding the recommendations of the sifting committee. We also believe there is a strong case for maintaining consistent arrangements between the National Assembly and the UK Parliament.

I can also confirm that we have no other proposed changes to the scrutiny arrangements for the Welsh Ministers' powers.

I am copying this letter to the Presiding Officer and to the Chair of the Assembly's Constitutional and Legislative Affairs Committee.

Yours sincerely

CARWYN JONES

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Julie James AC/AM
Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA/L/JJ/ 0198/18

Mick Antoniwn AC
Cadeirydd, y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
CF99 1NA

27 Mawrth 2018

Annwyl Mick,

Rwy'n ysgrifennu i roi gwybod i chi am ymateb ffurfiol Llywodraeth Cymru i adroddiad diweddaraf y Pwyllgor ar yr archwiliad o'r rheolau a wneir o dan Bil yr Undeb Ewropeaidd (Hysbysu am Ymadael). Rwy'n amgáu tabl sy'n gosod allan ein hymateb i bob argymhelliad.

Yr wyf yn ddiolchgar i'r Pwyllgor am eu gwaith ar y mater hwn.

Yn gywir,

Julie James AC / AM
Arweinydd y Tŷ a'r Prif Chwip

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Tudalen y pecyn 129

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol - Craffu ar reoliadau a wneir o dan Fil ymadael â'r Undeb Ewropeaidd

Nodyn cefndir - argymhellion ac ymateb drafft CLAC

Argymhelliad	Ymateb Drafft
<p>Argymhelliad 1. Rydym yn argymhell y dylid ymestyn y dull sifftio sydd wedi'i gynnwys yn y Bil ar hyn o bryd i bob rheoliad a wneir o dan y Bil ac a osodir gerbron y Cynulliad. Rydym hefyd yn argymhell bod un o bwyllgorau'r Cynulliad Cenedlaethol yn gyfrifol am wneud argymhelliad ynghylch y weithdrefn briodol ar gyfer y rheoliadau dan sylw.</p>	<p>CYTUNO: Mater i'r Cynulliad ei ystyried a chytuno arno â Llywodraeth y DU a Senedd y DU yw hwn. Mae Llywodraeth Cymru'n cytuno y dylai arfer pwerau dirprwyedig fod yn destun craffu priodol a chymesur. O ran y darpariaethau sy'n ymwneud ag arfer a chraffu ar bwerau dirprwyedig, rydym hefyd yn credu y dylai'r pwerau a'r dyletswyddau ar Weinidogion Cymru gydymffurfio â'r rhai sy'n gymwys i Weinidogion y DU. Felly, byddai Llywodraeth Cymru'n fodlon i ofynion sifftio cyfatebol fod yn gymwys i offerynnau a osodir gerbron y Cynulliad ag i offerynnau a osodir gerbron Senedd y DU.</p>
<p>Argymhelliad 2. Dylai'r argymhelliad a wneir gan y pwyllgor sifftio o dan argymhelliad 1 fod yn orfodol, oni bai fod y Cynulliad Cenedlaethol yn penderfynu fel arall. Dylid adlewyrchu'r gofyniad hwn ar wyneb y Bil.</p>	<p>GWRTHOD: Mae Llywodraeth Cymru'n cydnabod mai mater i'r Cynulliad Cenedlaethol ei ystyried a chytuno ag ef â Llywodraeth y DU a Senedd y DU yn bennaf yw hwn. Er hynny, nid ydym yn argyhoeddedig y dylai'r argymhelliad a wneir gan y pwyllgor sifftio fod yn derfynol. Rydym yn cytuno y dylai arfer pwerau dirprwyedig fod yn destun craffu priodol a chymesur ac rydym wedi dangos ein hymrwymiad i graffu cadarn trwy'r dull gweithredu yr ydym wedi'i ddefnyddio yn y Bil LDEU. Rydym yn credu hefyd y bydd Gweinidogion Cymru yn y mwyafrif o achosion yn derbyn argymhelliad y pwyllgor sifftio y dylai set o reoliadau fod yn destun y weithdrefn gadarnhaol yn hytrach na'r weithdrefn negyddol. Er hynny, gallai fod sefyllfaoedd lle y gallai fod angen i Weinidogion Cymru weithredu'n gyflymach nag y mae'r weithdrefn gadarnhaol yn darparu ar ei gyfer - a hynny oherwydd rhesymau brys - ac mae'n hanfodol bod y Llywodraeth yn cadw'r hyblygrwydd i wneud hynny, er gwaethaf argymhellion y pwyllgor sifftio. Mae Llywodraeth Cymru'n credu hefyd fod achos o blaid cadw trefniadau cyson rhwng y Cynulliad Cenedlaethol a Senedd y DU, yn enwedig ar gyfer cyd-offerynnau ac offerynnau cyfansawdd lle y byddai</p>

Argymhelliad	Ymateb Drafft
	pwyllgorau sifftio'r Cynulliad a Senedd y DU yn gwneud argymhellion ar y weithdrefn briodol.
<p>Argymhelliad 3. Rydym yn argymhell bod y meini prawf sifftio sydd wedi'u nodi ym mharagraff 35(b) o'r adroddiad hwn yn cael eu cymhwyso i'r holl reoliadau sy'n cael eu gwneud o dan y Bil ac a osodir gerbron y Cynulliad Cenedlaethol, ac y dylid nodi'r meini prawf yn Rheolau Sefydlog y Cynulliad Cenedlaethol.</p>	<p>GWRTHOD: Mae Llywodraeth Cymru'n cydnabod y bydd angen i'r pwyllgor sifftio gytuno ar y meini prawf i'w defnyddio ar gyfer cyflawni'r broses sifftio. Er hynny, bydd angen i'r meini prawf hyn fod yn gyson â'r fframwaith terfynol ar gyfer y mecanwaith sifftio, a bod angen i'r Cynulliad gadw rhywfaint o hyblygrwydd yn hyn o beth. Nid yw Llywodraeth Cymru wedi'i darbwylo felly y dylai'r meini prawf gael eu cynnwys yn y Rheolau Sefydlog.</p>
<p>Argymhelliad 4. Rydym yn argymhell bod y Bil yn cael ei ddiwygio yn unol â pharagraffau 44 i 46 o'r adroddiad hwn, sy'n cynnwys datganiadau yn cymeradwyo'r argymhellion a wnaed gan Bwyllgor Cyfansoddiad Tŷ'r Arglwyddi a Phwyllgor Pwerau Dirprwyedig a Diwygio Rheoleiddio Tŷ'r Arglwyddi.</p> <p>Y gwelliannau a gynigir ym mharagraffau 44-46 yw:</p> <ul style="list-style-type: none"> • Y dylai'r weithdrefn gadarnhaol fod yn gymwys i unrhyw fesur sy'n cynnwys gwneud polisi • Y dylai'r weithdrefn gadarnhaol fod yn gymwys i reoliadau a wneir o dan gymalau 7, 8, 9 a 17 sy'n diwygio neu'n diddymu deddfwriaeth sylfaenol 46 • Y dylai Deddf Llywodraeth Cymru 2006 gael ei chynnwys yn y rhestr o ddeddfiadau yng nghymal 7(7) na ellir eu diwygio trwy gyfrwng rheoliadau 	<p>CYTUNO: Mae Llywodraeth Cymru'n credu, mewn perthynas â'r darpariaethau sy'n ymwneud ag arfer a chraffu ar bwerau dirprwyedig, y dylai'r pwerau a'r dyletswyddau ar Weinidogion Cymru gydymffurfio â'r rhai sy'n gymwys i Weinidogion y DU. Rydym yn cefnogi diwygio Bil Ymadael â'r Undeb Ewropeaidd yn y ffordd a gynigiwyd gan CLAC (paragraffau 44-46).</p>
<p>Argymhelliad 5. Rydym yn argymhell mai'r Pwyllgor hwn – y Pwyllgor Cyfansoddiadol a Materion Deddfwriaethol - ddylai fod y pwyllgor sifftio ar gyfer y Cynulliad Cenedlaethol ac y dylid diwygio Rheolau Sefydlog y Cynulliad Cenedlaethol yn unol â hynny.</p>	<p>CYTUNO O RAN EGWYDDOR: mater i'r Cynulliad yw hwn. Mae Llywodraeth Cymru'n cytuno y byddai'n briodol i CLAC ysgwyddo'r swyddogaeth hon. Er hynny, nid ydym yn credu bod angen diwygio Rheolau Sefydlog i adlewyrchu hyn.</p>
<p>Argymhelliad 6. Rydym yn argymhell y dylai'r dull sifftio fod yn gymwys i reoliadau o dan Gategorïau 1, 2 a 3, sydd wedi'u nodi yn yr adroddiad hwn, sef yr holl reoliadau a wneir o dan y Bil sy'n cynnwys darpariaethau datganoledig a osodir gerbron y Cynulliad Cenedlaethol.</p>	<p>CYTUNO: Mae Llywodraeth Cymru'n cytuno y dylai'r mecanwaith sifftio fod yn gymwys i'r categorïau o reoliadau a nodir gan CLAC, er ei bod yn nodi'r heriau posibl mewn perthynas â chyd-reoliadau a rheoliadau cydamserol, lle y bydd pwyllgorau sifftio'r Cynulliad Cenedlaethol a</p>

Argymhelliad	Ymateb Drafft
<ul style="list-style-type: none"> • Categori 1: rheoliadau a wneir gan Weinidogion Cymru yn gweithredu'n annibynnol gan ddefnyddio eu pwerau o ran Atodlen 2, a osodir gerbron Cynulliad Cenedlaethol Cymru yn unig; • Categori 2: rheoliadau a wneir gan Weinidogion Cymru a Gweinidogion y DU yn gweithredu ar y cyd o dan Atodlen 2, a osodir gerbron Cynulliad Cenedlaethol Cymru a Senedd y DU; • Categori 3: rheoliadau a wneir gan Weinidogion Cymru a Gweinidogion y DU gan ddefnyddio eu pwerau cydamserol o dan Atodlen 2 a chymalau 7, 8 a 9 yn eu trefn) mewn rheoliadau cyfansawdd, a osodir gerbron Cynulliad Cenedlaethol Cymru a Senedd y DU; • Categori 4: rheoliadau a wneir gan wneir gan Weinidogion y DU yn defnyddio eu pwerau o dan gymalau 7, 8, 9 a 17, a osodir gerbron Senedd y DU yn unig. 	<p>phwyllgorau sifftio Senedd y DU'n ystyried yr un set o reoliadau.</p>
<p>Argymhelliad 7. Rydym yn argymhell y dylai'r weithdrefn gwneud cadarnhaol ar gyfer achosion brys hefyd gael ei chymhwyso mewn perthynas â rheoliadau a wneir gan Weinidogion Cymru (boed a ydynt yn gweithredu ar eu pen eu hunain neu'n gweithredu gyda Gweinidogion y DU mewn perthynas â rheoliadau cyfansawdd, neu'n gweithredu gyda Gweinidogion y DU mewn perthynas â rheoliadau ar y cyd), a hynny er mwyn sicrhau bod gweinidogion o bob llywodraeth yn cael eu trin yn gyson.</p>	<p>CYTUNO : Mae Llywodraeth Cymru o'r farn bod y gweithdrefnau cadarnhaol ar gyfer achosion brys fod ar gael mewn perthynas â rheoliadau a wneir gan Weinidogion Cymru, i gyd-fynd â'r hyblygrwydd sydd ar gael i Weinidogion y DU ac yn gyson ag egwyddorion cysondeb o ran y ffordd y caiff Gweinidogion pob Llywodraeth eu trin.</p>



David Rees AC
Cadeirydd
Y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol

Mick Antoniw AC
Cadeirydd
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

16 Ebrill 2018

Annwyl *Mick,*

Ysgrifennaf atoch ar ôl ymddangos gerbron cyfarfod ar y cyd o'r Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol a'r Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ar 12 Chwefror i ystyried Bil Masnach y DU. Yn y pwyllgor cytunais i rannu dyddiadau cyfarfodydd o'r Gweithgor Ymadael â'r UE gydag aelodau eraill o'r pwyllgor. Cyfarfu'r Gweithgor Gadael yr UE ar y dyddiadau canlynol:

4 Hydref 2017
7 Rhagfyr 2017
24 Ionawr 2018
22 Mawrth 2018

Er gwybodaeth cyn i'r Gweithgor Ymadael â'r UE gael ei sefydlu roedd Brexit yn eitem sefydlog ar agenda Cyngor Datblygu'r Economi. Sefydlwyd y Gweithgor Ymadael â'r UE fel is-grŵp o Gyngor Datblygu'r Economi.

Yn gywir

Ken Skates AC/AM

Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth
Cabinet Secretary for Economy and Transport

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Eitem 7

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Eitem 8

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Eitem 9

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon