

## **Explanatory Memorandum to the Agricultural Wages (Wales) Order 2017**

This Explanatory Memorandum has been prepared by the Department of Economy, Skills and Natural Resources 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 2017. I am satisfied the benefits justify the likely costs.

**Lesley Griffiths AM**  
**Cabinet Secretary for the Environment and Rural Affairs**

2 November 2017

## 1. Description

The Agricultural Wages (Wales) Order 2017 (“the 2017 Order”) makes provision about the minimum rates of remuneration and other terms and conditions of employment for agricultural workers. The 2017 Order revokes and replaces the Agricultural Wages (Wales) Order 2016<sup>1</sup> (“the 2016 Order”) with some changes which include increases to the 2016 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.

Panel members have reviewed the current level of wages and other agriculture related allowances and benefits and agreed to increase wages for agricultural workers. The panel conducted a targeted consultation on the new proposed rates for the draft 2017 Order in the autumn of 2016.

At present, agricultural workers’ wages in Wales are subject to the rates specified by the 2016 Order, except for minimum rates in the Order which fall below the UK National Minimum Wage (NMW) and National Living Wage (NLW) levels. On 1 April 2016, the UK Government introduced the NLW for all workers aged 25 and over. This meant all Grade 1 workers aged 25 and above had to be paid at least the NLW of £7.20 per hour until the NLW increased to £7.50 on 1 April 2017.

The intention of the Panel was to have the new Order in force on 1 April, the same date the NLW and NMW increases took effect. The Panel’s aim was to align the agricultural minimum wage (AMW) increase with NLW and NMW changes, avoiding employers and employees having to cope with with a

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<sup>1</sup> The Agricultural Wages (Wales) Order 2016 came into force on 26 February 2016 and was the first wages order made under the 2014 Act. Section 4(2) of the Act provided the Welsh Ministers with the power to introduce a wages order as an interim measure, before the Panel was established.

transitional period during which the NLW/NMW would override the AMW levels in Wales. However, the 1 April coming into force date was not achieved.

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

Breaching the 21 day rule is proposed to ensure the 2017 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 reduce the time taken to bring into force uplifted agricultural wage rates, 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.

Giving retrospective effect to the 2017 Order would recompense those agricultural workers who had expected an increase in their hourly wage from 1 April 2017, as was proposed in the Panel's targeted consultation of autumn 2016.

Any further 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 2017.

## **3. Legislative background**

The 2017 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. In particular, pursuant to section 3(2), an agricultural wages order may include provision specifying (among other things) the minimum rates of remuneration to be paid to 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, approve and make the order.

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 transitional provision.

Pursuant to section 17(3) of the 2014 Act the 2017 Order is 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 2017 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 NMW and NLW level.

The 2017 Order will replace the 2016 Order and increase the 2016 minimum pay levels for all categories and grades of agricultural workers in Wales. The Panel agreed to put forward a 1.2% increase to the pay rates of Grades 3-6 and Grade 1 workers of compulsory age (aged 13-16). The rates of Grade 1 and Grade 2 were set in the context of the NLW and NMW increase. As a result of the increases to national wage levels applying from April 2017, Grade 1 workers aged 16-20 will receive 5.05% increase, with Grade 1 workers aged 21-24 receiving an increase of 0.14% and those 25 and above will have their hourly wages uplifted by 0.13 %. The increase to Grade 2 workers' rates is approximately 2% for workers aged 16-24 and approximately 0.5% for workers aged 25+. The following table contains the rates of the 2016 and 2017 Orders for comparison:

<b>Grade or Category of Worker</b>	<b>Minimum Hourly Rate 2016</b>	<b>Minimum Hourly Rate 2017</b>
Grade 1 worker of compulsory school age (13-16)	£3.30	£3.34
Grade 1 worker (16 – 24 years of age)	(for ages 16-20) £6.72  (for ages 21-24) £6.72 until 1 October 2016 £6.95 from 1 October 2016 – 31 March 2017	£7.06 (NMW, (Year 21-24) +1p)
Grade 1 worker (aged 25+)	£6.72 until 1 April 2016 £7.20 from 1 April 2016 – 31 March 2017	£7.51 (NLW + 1p)
Grade 2 worker	£7.39	£7.54 (NLW + 4p)
Grade 3 worker	£8.12	£8.22
Grade 4 worker	£8.72	£8.82
Grade 5 worker	£9.23	£9.34
Grade 6 worker	£9.97	£10.09

The increase to the UK National Minimum Wage and the UK National Living Wage rates on 1 April impacted on the wages of some farm workers in Wales. The table below summarises the changes in respect of agricultural workers employed at Grades 1 and 2

Grade	Minimum Hourly Rate from 1 April 2017
Grade 1: 25 and over:	£7.50
Grade 1: 21-24:	£7.05
Grade 1: 16-20:	£6.72
Grade 2 (aged 25 and over)	£7.50

All other categories and grades of workers are currently subject to the rates specified by the 2016 Order.

The AMW regime rewards qualifications and experience in agriculture through a six grade career structure. Since the introduction of the NMW in 1999, the hourly pay of Grade 1 workers has traditionally been set at, or just above, the NMW. On 1 April 2016, the UK Government introduced the NLW for all workers aged 25 and above. The revised AMW levels have to take into consideration the NLW increase and this is reflected in the rates set for the lower Grade workers (Grade 1 and Grade 2) in the new order.

Grade 1 is seen as a transitional Grade within the AMW regime. 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 those employed in agriculture.

The AMW regime contains 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 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 statutory provisions within the AMW regime provide hourly remuneration for apprentices, depending on age and the year of their programme. The following table provides the rates set in the 2017 Order in comparison to the rates specified by the 2016 Order:

<b>Category of apprentice</b>	<b>2016 rates</b>	<b>2017 rates</b>
Year 1 Apprentice	£3.78	£3.78
Year 2 Apprentice (aged 16-17)	£3.90	£4.05
Year 2 Apprentice (aged 18-20)	£5.30	£5.60
Year 2 Apprentice (aged 21-24)	£6.70	£7.05
Year 2 Apprentice (aged 25+)*	£6.70 (until 31 March 2016) £7.20 (1 April 2016-31 March 2017)	£7.50

\*Categorised as Year 2 Apprentice (aged 21 and over) in 2016 Order

The AMW regime offers a wide range of additional benefits and agriculture related allowances. Some of these benefits are linked to the appropriate basic pay rates, such as overtime rates and on-call allowance. These provisions acknowledge the seasonal nature of agricultural work, for example many workers are required to work above their contracted hours during busy periods. The 2017 Order will maintain overtime rates at 1.5 times above the applicable basic rates – this will apply to all workers and apprentices. The On-call allowance will be specified as the equivalent to two hours of overtime pay at the rate applicable to the worker's grade.

The AMW regime also provides for a number of additional agriculture related benefits and allowances, including dog and housing allowance and birth and adoption grants.

Dog and housing allowances recognise workers often require a dog to carry out their duties and that agricultural workers often live on farm in tied accommodation.

Housing allowance sets the weekly amount permitted to be deducted from the worker's minimum pay where a house is provided. The housing allowance in the 2017 Order will continue to be set at the same level as in the 2016 Order, where in any week an employer provides an agricultural worker with a house for the whole of that week, they may deduct the sum of £1.50 from their minimum wage payable or £4.82 for 'other accommodation'.

The Panel agreed a 1.2% increase to other agriculture related allowances contained within the AMW regime. As a result, the dog allowance rate, which was specified at £7.63 in the 2016 Order, will be set at £7.72 from 1 April 2017.

In line with the 1.2% increase, birth and adoption grants will also increase from £60 per child to £60.72 per child in the new Order.

Night work supplement within the AMW regime is applicable to work undertaken between 7pm of an evening and 6am the next morning and is payable on top of the worker's applicable hourly rate. Night work supplement does not apply for the first two hours of night work. The 2017 Order will increase the night work supplement from £1.44 per hour to £1.46, again representing an overall 1.2% increase.

The Panel agreed to introduce some additional minor changes to the current AMW regime and the 2016 Order. In particular, the Panel agreed to amend the provision related to the calculation of holiday pay in the new order to ensure it includes allowances paid to the worker on a consistent basis, including overtime.

The 2017 Order also incorporates a rolling 12 week reference period for calculating holiday entitlement as this would be a more practical reference period for both employers and workers.

A more substantial change in the 2017 Order will affect the provision for flexible workers. The Panel agreed to abolish this category as this provision is considered to be discriminatory on the basis it offers higher hourly pay rates to full time workers than to part time workers. In the expert view of the Panel, the flexible workers provision is outdated and obsolete. Any existing flexible agricultural workers, as defined within the 2016 Order, will continue on their existing terms and conditions until the written agreement with their employer comes to an end.

The 2017 Order includes updated schedules of applicable awards and certificates of competence which help determine the Grade of the worker. The revised schedules reflect changes to the educational framework and the titles of certificates.

The introduction of the 2017 Order is in line with a number of the goals of the Wellbeing of Future Generations Act. In particular, it contributes to the development of a more prosperous, resilient and equal Wales by setting fair wages for agricultural workers and supporting skills and careers within the sector, enabling employees to learn and progress

Ensuring fair wages for agricultural workers and supporting rural communities is of vital importance within the context of the Welsh Government's Tackling Poverty agenda. The specific goals of the Tackling Poverty agenda include raising household incomes, improving the skills base of young people and helping families in poorer communities. Providing higher hourly wages for agricultural workers will have the capacity to support families by increasing their household income (to the extent this is not offset by reduction in employment or working hours). The provisions for apprentices and training - in particular the Order specifies employers must pay the cost of agreed training and the provision which allows Grade 1 workers to acquire the necessary qualifications to move to a higher grade at the expense of the employer following a continuous employment of 30 weeks - within the new order will assist young



people to gain skills and qualifications, which can improve their job prospects in the future.

## **5. Consultation**

See Section 10 below.

## **6. Regulatory Impact Assessment (RIA)**

For the purpose of the RIA, the impact is considered for a 12 month period. The RIA was prepared in advance of the anticipated coming into force date of 1 April 2017. Since the intention is for the provisions of the Order to be backdated to 1 April, the RIA is still considered to represent a best estimate of the likely impact of the Order between 1 April 2017 and 31 March 2018. The RIA is structured as follows:

- 6.1: *Summary of proposals made by, and objectives of, the Agricultural Wages (Wales) Order*
- 6.2: *Summary of Options 1 and 2*
- 6.3: *Summary findings from the evidence base and literature review*
- 6.4: *Costs and benefits*
- 6.5: *Conclusion*

Annexes linked to the RIA are:

*Annex A: Supporting Calculations*

*Annex B: Calculations of Employment Effect*

*Annex C: Competition Assessment*

### **6.1: Summary of proposals made by, and objectives of, the Agricultural Wages (Wales) Order**

In summary, the Agricultural Wages (Wales) Order will:

- Increase minimum hourly pay by around 1.2% for Grade 3-6 of agricultural workers.
- Increase minimum pay for Grade 1 workers (age 25+) to £7.51 per hour.
- Increase minimum pay for Grade 2 workers to £7.54.
- Specify minimum rates for apprentices in the second year of their apprenticeship programme aged 16-18 as £4.05, 18-20 as £5.60 per

hour, for apprentices aged 21-24 as £7.05 and apprentices aged 25+ as £7.50

- Increase minimum pay for young workers (aged 13-16) to £3.34 per hour.
- Increase night work supplement to £1.46 per hour.
- Maintain overtime rate as 1.5 above the applicable basic rate of workers.
- Change on-call allowance to a one-off payment equivalent to two times the hourly overtime rate.
- Increase dog allowance at £7.72 per dog.
- Maintain housing allowance at £1.50 per week for a house and no more than £4.82 per day for other type of accommodation.
- Increase birth and adoption grant to £60.72 per child.
- Maintain the structure and provisions of the AMW regime, including provisions for training costs, employment at a grade, progression to a different Grade, output work, holiday and other leave, holiday pay, agricultural sick pay, rest breaks, provisions for travelling and bad weather
- Update the schedule of relevant qualifications and training which determines the appropriate grade of workers

The main objectives of the Agricultural Wages (Wales) Order 2017 are:

- To encourage the development and retention of necessary skills in the sector
- To help the professionalisation of the industry
- To support the entry of young workers
- To provide fair wages to workers and support economic growth in rural communities across Wales in the context of the Tackling Poverty agenda.

## **6.2: Summary of Options 1 and 2**

### **Option 1 – Do Nothing**

This is the baseline policy option to maintain the minimum wage rates for agricultural workers at 2016 levels in accordance with the provisions of the Agricultural Wages (Wales) Order 2016. In addition, the 2014 Act provides provisions which mean hourly wage rates cannot be below the statutory UK NMW. In the baseline scenario, the minimum wage rates are adjusted to the 2017 NMW rates where the rates in AWO 2016 would fall below the NMW from April 2017. The costs and benefits will be measured against this baseline policy option.

An important context to this baseline is 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 AWO 2016 in February 2016 to ensure 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 assessment suggested the benefits of AWO 2016 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, that may 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 during the passing of 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 overtime rates and night work supplement, 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 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 AMW regime. Instead, it is an assessment of additional costs and benefits of AWO 2017 relative to the AWO 2016 scenario which also takes account of the NMW/NLW changes from April 2017.

## Option 2 – Implementing the new Order.

This is the policy alternative, which would involve replacing the current Order (2016) with a new Order (2017). 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 (2016)	AWO (2017)
Grade 1 worker under compulsory school age	£3.30	£3.34
	£6.72 until 1 October 2016; £6.95 from 1 October 2016	£7.06 (NMW highest rate +1p)
Grade 1 worker over compulsory school age (16-24)	£7.05 (current NMW) from 1 April 2017	
	£6.72 until 1 April 2016; £7.20 from 1 April 2016	£7.51 (NLW+1p)
Grade 1 work (aged 25+)	£7.50 (current NLW) from 1 April 2017	
Grade 2 worker	£7.39	£7.54 (NLW+4p)
Grade 3 worker	£8.12	£8.22
Grade 4 worker	£8.72	£8.82
Grade 5 worker	£9.23	£9.34
Grade 6 worker	£9.97	£10.09
Year 1 Apprentice	£3.78	£3.78
Year 2 Apprentice (aged 16-17)	£3.90	£4.05 MW (under 18)
Year 2 Apprentice (aged 18-20)	£5.30	£5.60 NMW (development rate)
Year 2 Apprentice (aged 21 -24)	£6.70	£7.05 NMW (highest rate)
Year 2 Apprentice (aged 25+)	£6.70	£7.50 NLW

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

The pay rate for Grade 1 workers under compulsory school age will increase to by 1.2% to £3.34 in the proposed AWO 2017. 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)**

Grade 1 workers aged 16-20 have been subject to AMW as set by the 2016 Order. The hourly rate for these workers will increase from £6.72 to £7.06, a rise of 5.05% from April 2017.

The hourly minimum wage rate for Grade 1 workers aged between 21 and 24 was £6.72 within AWO 2016 and increased to the national minimum rate of £6.95 from October 2016, with an additional increase to £7.05 from 1 April 2017. In the proposed AWO 2017, this will change to £7.06 (NMW plus 1p). The proposed rate represents 0.14% increase from the rate which has applied since April 2017.

As there is currently no comprehensive data on the age composition of relevant agricultural workers or on the extent to which actual wage rates are dispersed above the minimum, the impacts on wage costs or earnings of the changes in minimum wage rates for Grade 1 workers aged between 16-24 cannot be quantified but it is assumed the number of workers in this category is small and therefore the impact will be small.

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

The proposed changes in the AWO (Wales) 2017 will see an increase in the minimum wage rate by 0.13 % for Grade 1 workers (over 25), 2% for Grade 2 workers and 1.2% for workers of Grade 3-6.

Under option 1, the increases in NMW/NML would effectively amalgamate Grades 1 and 2 for workers over the age of 25. Given Grade 1 is considered to be a transitional grade with the right to appropriate training to reach Grade 2 after 30 weeks, it is assumed the number of workers over the age of 25 in Grade 1 will be small. Data is not available on the number of workers over 25 in each grade, however, the change in policy would reduce any financial incentive to move from Grade 1 to Grade 2 for these workers. Younger workers (i.e. Grade 1 under the age of 25) would, however, still have a financial incentive to up-skill to move from Grade 1 to Grade 2. Given Grade 1 is considered to be a transitional grade with the right to appropriate training to reach Grade 2 after 30 weeks, we assume the number of workers over the age of 25 in Grade 1 will be small (on a full-time or part-time basis).

There are no statistics on the number of agricultural employees by grade for Wales. Based the data collected by Defra on Farm Labour and Wage Statistics in England and Wales in 2012<sup>2</sup> provides estimates on farm labour by grade, the proportion of hours worked by Grade 1 workers (on full time or part time basis) accounted for approximately 5% of the total hours worked by all Grade1-6 agricultural workers. As such the effects of the impact of diminishing differences of minimum wage rates between Grade 1 and Grade 2 workers

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<sup>2</sup> Defra Farm Labour and Wage Statistics, 2012. Available online: <http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/statistics/files/defra-stats-foodfarm-farmmanage-earnings-labour2012-120627.pdf>

under option 1 is expected to be minimal on up-skilling between grades. However, there are large numbers of casual workers at Grade 1 (18% of the total number of workers, 16% of total hours worked), the increase in Grade 1 minimum wage rate would have a relatively big impact on wage costs/earnings.

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 2017, 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 T). In AWO 2017, the proposed minimum wage rates for Grade 2 workers are only 0.4% higher<sup>3</sup> than Grade 1 workers aged 25 and above.

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

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

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

Note: \* changed to £7.50 from April 2017.

\*\*2017 figures reflect changes in NMW/NLW from April 2017.

This change means the minimum wage rate differentials (3p difference under option 2) between Grade 1 and Grade 2 workers will be small, which may lead to reduced incentives for Grade 1 workers to up-skill so as to progress to Grade 2 although some workers may still be incentivised to pursue training to reach even higher grades.

The hourly minimum wage rate for Grade 1 workers aged between 16 and 24 will increase to £7.06 under AWO 2017, representing an increase of 0.14% for ages 21-24 from the rate since April 2017 and 5.05%, from April 2016, for workers aged 16-20. This is a higher percentage increase than that in Grade 1 workers aged above 25. Therefore, it is anticipated the potential impact on grade progression will be minimal.

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

The changes in costs and benefits for Grade 1 (aged 25+) to Grade 6 workers are estimated using data from Farm Labour and Wage Statistics (Defra, 2012)<sup>4</sup>, which 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 information which contains a breakdown by grade of workers.

- **Year 1 (Y1) and Year 2 (Y2) Apprentice**

The hourly pay rate for Y1 Apprentice in AWO 2017 will remain the same as in AWO 2016 and there will be no change in wage costs to agricultural businesses/earnings of Y1 apprentices if the number of Y1 and Y2 apprentice workers (i.e. hours paid) remains the same. However, with increases in most of the other grades, this might be seen as a discouragement for workers to engage in agricultural work.

Minimum hourly rates in AWO 2017 for Year 2 apprentices aged 16 plus are equivalent to the national minimum wage rates for the relevant age groups.

According to 2015 data, there were around 200 apprentices in agriculture in Wales. The increase of apprentice rates under the new wages order will affect the existing and new apprentices. However, given the limited number of agricultural apprentices in Wales, the impact is expected to be small.

- **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 overtime pay, holiday pay and other allowances, which are listed in Table 3 below.

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<sup>4</sup> Available at:

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

**Table 3: Changes to other categories and provisions**

Type	AWO 2016	AWO 2017
Reference period for calculation holiday entitlement	Where an agricultural worker works their basic hours and, where applicable any guaranteed overtime,  on a varying number of days each week, the number of days worked each week for the purposes of the Table in Schedule 5, is to be taken as an average of the number of qualifying days worked each week during the period commencing on the start date of the annual leave year and ending the day before the commencement of the agricultural worker's annual leave.	A rolling 12 week reference period for calculating the holiday entitlement of Agricultural Workers with variable hours (Article 31(3) of the 2016 Order).  q31 (1) Where an agricultural worker works their basic hours on a varying number of days each week, the number of days worked each week for the purposes of the Table in Schedule 5, is to be taken as an average of the number of qualifying days worked each week during a period of 12 weeks and that average number of qualifying days shall, where appropriate, be rounded to the nearest whole day
Overtime	1.5 times the agricultural minimum wage specified in article 13 and Schedule 4	1.5 times the agricultural minimum wage specified in article 12 and Schedule 4
On-call allowance	On-call allowance is set as the sum of two hours of overtime pay	Making on-call allowance a one-off payment equivalent to two times the hourly rate;
<b>Other provisions</b>		
Dog allowance	£7.63	£7.72*
Night allowance	£1.44	£1.46*
Birth and adoption grants	£60.00	£60.72*

\* represents a 1.2% increase

Apart from the overtime pay for Grade 1-6 workers, the benefits and costs related to other changes are either negligible or cannot be quantified due to lack of data. These changes are:

- **The method for calculating the holiday entitlement of Agricultural Workers changing to a rolling 12 week reference period.**

This represents a change in method for calculation of holiday entitlement. It is hard to quantify the costs and benefits associated with it. The time required for making such adjustments should be covered within the one hour estimate (which is discussed in the administrative cost section) of admin time borne by the farm businesses.

- **Clarifying the on-call allowance as a one-off payment equivalent to two times the hourly rate**

Within AWO 2016, the on-call allowance of a sum is equivalent to two times the hourly overtime rate. The AWO 2017 will provide clarification on this provision to ensure it is understood as a one-off payment.



- **Dog allowance; Night allowance; Birth and adoption grants.**

The rates for dog allowance, night allowance and birth and adoption grants will have an increase of 1.2% in AWO 2017 to the rates in AWO 2016. However, the costs and benefits of these changes cannot be quantified due to lack of data.

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

Due to the unavailability of data, the breakdown by grade is not available for many of the worker groups. Therefore, only the costs and benefits associated with Grade 1-6 agricultural workers were estimated for both basic pay and overtime pay in the RIA (the number of workers in each grade were estimated based on data from Farm Labour and Wage Statistics (Defra, 2012)). As this was not Wales-specific data and represented the labour structure by grade of workers for England and Wales, the assumption was made that the labour structure in Wales was similar to the overall estimate made by Defra in its 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 categories, which include Grade 1 workers aged between 16-24 and Year 2 Apprentice. There are no changes in minimum wage rates for Year 1 Apprentice (£3.78/hour).

In terms of enforcement costs, it is anticipated administrative costs accruing to the Welsh Government would be broadly similar under AWO 2017 option as the Welsh Government is already enforcing the AMW regime which has been preserved under the 2014 Act.

- **Enforcement cost**

In the Welsh context, the government enforcement costs associated with the 2014 Act for enforcing the provisions of the AWO 2012 was estimated at around £3,000 per year in the previous RIA of AWO 2016. This was based on a reactive enforcement mechanism, meaning the Welsh Government would investigate any claims of potential underpayment and if necessary, issue enforcement notices. The enforcement costs were based on the assumptions there are two cases per year to investigate. Each case requires four days of input at an Executive Officer level (£122/day), five days of input at Higher Executive Officer (HEO) level (£163/day) and half a day of input at Grade 7 (£274). It is anticipated the enforcement costs of the proposed AWO 2017 would largely remain the same at £3,000 per year assuming there still will be two cases to investigate each year.

The cost of establishing and running the Agricultural Advisory Panel was considered separately in the RIA which accompanied the Agricultural Advisory Panel for Wales (Establishment) Order 2016. Again, this cost would largely remain the same for AWO 2017 estimated at between £6,300 (assuming a

minimum of three meetings a year) and £75,600 per year (assuming a maximum of 36 meeting per year)<sup>5</sup>.

- **Administrative cost**

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.

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

It is assumed each employer would need one hour<sup>6</sup> 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 (2016)<sup>7</sup>, it is assumed the average cost per hour of a farmer's time is £10.84 (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 £9.17 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 employers<sup>8</sup>. The administrative costs to farm businesses are therefore estimated at £34.5k for Wales. If using the median value for the labour cost (£9.17 per hour), the total administrative cost to farm businesses is estimated at £29k. 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.

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<sup>5</sup> Source: Welsh Government (2016). THE AGRICULTURAL ADVISORY PANEL FOR WALES (ESTABLISHMENT) ORDER 2016-Explanatory Memorandum Incorporating the Regulatory Impact Assessment. Available at: [www.assembly.wales/laid%20documents/sub-ld10544-em/sub-ld10544-em-e.pdf](http://www.assembly.wales/laid%20documents/sub-ld10544-em/sub-ld10544-em-e.pdf)

<sup>6</sup> This is consistent with the estimates used in the RIA of abolishment of AWB by Defra and the RIA of the Act 2014.

<sup>7</sup> Estimates for 2016 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: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/industry2digitsicashetable4>

<sup>8</sup> 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>.

### 6.3: Summary findings from the evidence base and literature review

In this RIA, we have reviewed the evidence presented in the previous RIA of AWO 2016 and considered additional literature where relevant. Our conclusion is 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 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 the introduction of the minimum wages was associated with an increase in labour productivity. On balance, the evidence suggests 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 Studies<sup>9</sup> has found the National Living Wage will raise household incomes by less than 1% on average, even for poorer households.

*Company level impacts:* Research suggests firm responses to involuntary increases in wage costs can include increasing prices, increasing labour productivity<sup>10</sup>, accepting reduced profits, organisational changes (such as tighter human resource practices, increased performance standards at work, and better management practices), efficiency wage<sup>11</sup> 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.

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<sup>9</sup> Institutes for Fiscal Studies (IFS), 2016. Living Standards, Poverty and Inequality in the UK: 2015-16 to 2020-2. IFS Report R114.

<sup>10</sup> 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).]

<sup>11</sup> 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.

## 6.4: Costs and 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 a Defra study undertaken in 2012 which contained non Wales-specific data. The impact on other categories of workers or the impacts 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. 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 2017 represents a rise of 1-2% rise for agricultural workers within Grade 2-6. The most significant changes in pay rates are for Grade 1 agricultural workers, which represent a 12% increase from the AWO 2016 level at April 2016. If taking account of the increase in NMW in October 2016 which has brought the pay rate to £7.2 per hour, the increase represents 8% for the average AWO 2016 rate for Grade 1 workers. This affects over 3,800 (23%)<sup>12</sup> workers in this Grade (with three quarters of whom being casual workers) out of the 16,700 paid agricultural workers in Wales in 2015.

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 which directly relate to Option 2.

### **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.

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<sup>12</sup> Calculated based on the number of agricultural workers in Wales and distribution by grade of workers from Defra's estimates in 2012.

**Option 2: Introducing Agricultural Wages (Wales) Order 2017 to replace AWO 2016 and link agricultural minimum wage levels with NMW rises for Grade 1 and 2 workers.**

*1: Impact on Employment*

Standard neo-classical theory predicts 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 suggest labour demand has remained broadly unchanged despite this legislated rise in earnings for the lowest paid<sup>13</sup>. This is consistent with the findings from the literature review in the previous RIA of AWO 2016 for Wales.

In the previous RIA, 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 2015 totalled 58,319 people, with 16,700 of these being employed as farm workers (see in Table 7 Appendix A). No data are available as to the proportion of the total in each grade in Wales. However, such data are available for the UK as a whole for 2012 from Defra, based on existing data, historic data and assumptions. These can be combined with the 2015 data for the total agricultural labour force in Wales to give rough estimates of workforce grade composition (see in Table 8 Appendix A). These suggest that some 3,859 workers may be within Grade 1, 9,256 workers within Grade 2 and some 3,539 workers within other grades (3-6).

Given this, an application of the mean elasticity estimate -0.19 suggested that there would be a reduction in employment of less than 20 farm workers<sup>14</sup> (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 2016 and AWO 2017; instead, it has taken account of forthcoming increases in NMW and NLW from April 2017. If using the median value of elasticity coefficient -0.03, the reduction in employment would be negligible at three people (see Table 16 at Appendix B).

In terms of reductions to hours worked, some evidence suggests it is likely some farm businesses will seek to absorb higher labour costs through reducing the number of hours worked in addition to other effects on employment, although this cannot be estimated with any degree of accuracy.

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<sup>13</sup> Riley, R. and Bondibene, C. (2015). Raising the Standard: Minimum Wages and Firm Productivity. National Institute of Economic and Social Research.

<sup>14</sup> The number of workers reduced =  $0.19 * 0.13\% * 3859(\text{Grade } 1) - 0.19 * 0.5\% * 9257(\text{Grade } 2) - 0.19 * 1.1\% * 3539(\text{Grade } 3-6) = 17$

## 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 2015 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 the changes in costs for Option 2 are estimated at £1.2million 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 estimates which are available for calculating the additional labour costs as a result of pay rate rises.

The changes in AWO 2017 also include changes in holiday pay calculations, on call allowances and other allowances. These have not been calculated as:

- (a) data are not generally available;
- (b) the changes will only have minimal cost implications; and,
- (c) the scale of impact is unlikely to be significant in overall terms.

It should also be noted the difference in minimum wage rates between Option 1 and 2 are note the full difference between AWO 2016 and AWO 2017, it also takes account of forthcoming statutory NMW and NLW from April 2017.

**Table 4:** Estimated changes in annual wage costs, waged agricultural workforce, Wales 2015 (a-c)

Grade	Full-time (£)		Part-time (£)	Casual (£)		Total (£)
	Basic pay	Overtime pay	Basic pay	Basic pay	Overtime pay	
1	£5,644	£1,331	£6,965	£7,824	£12,843	£34,606
2	£146,731	£34,612	£125,379	£48,948	£8,035	£436,018
3	£76,187	£17,972	£31,345	£0	£0	£125,504
4	£282,176	£66,562	£54,729	£0	£0	£403,466
5	£113,811	£26,847	£16,419	£0	£0	£157,076
6	£51,732	£12,203	£5,473	£0	£0	£69,408
<b>Total (£)</b>	<b>£676,282</b>	<b>£159,526</b>	<b>£240,309</b>	<b>£56,771</b>	<b>£93,190</b>	<b>£1,162,462</b>

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 wages differential 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 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 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 that was non Wales-specific and has not been updated since 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%<sup>15</sup>. Composition 1 gives an estimate of £1.2million; Composition 2 yields a result of £1.19million; Composition 3 gives a result of £1.15 million. Collection of data on farm workers by grade in Wales would help improving accuracy of estimates.

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composition 1

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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%	

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Composition 2

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Grade	Full-time	Part-time	Casual
Grade 1	6%	14%	39%
Grade 2	49%	63%	61%
Grade 3	9%	7%	
Grade 4	20%	11%	
Grade 5	11%	3%	
Grade 6	5%	1%	

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composition 3

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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%	

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<sup>15</sup> 10% is an arbitrary numbers. 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.



### *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 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.

#### *Cost: government enforcement*

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

### **Benefits**

#### *1: Impact on Earnings*

Under the previously explained assumptions, the proposed changes in AWO 2017 minimum wage rates are estimated would raise total wages received by agricultural workers by some £1.2 million per annum. It should be noted these benefits are not related to the change between AWO 2016 and AWO 2017; instead, they relate to the changes in wage rates taking account of forthcoming increases in NMW and NLW from April 2017.

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 which 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 16,700 waged workers in agriculture within Wales in 2015, 4,638 (28%) were full time. The remaining 72% being part-time, seasonal or casual workers. The probability of in-work poverty is generally higher for part-time, seasonal or casual workers than full-time workers.

The most significant increase in the minimum wage rate is for Grade 1 workers. This could positively impact some 278 people on full time basis, 626 on part-time basis and 2,952 casual workers (see Table 10) in Appendix A. 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 the AWO 2017 will continue to enabling up-skilling 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 2107 are higher than NMW/NLW and it maintains a privilege rate not universally enjoyed other sectors than agriculture, this should help to retain the employment and skills within the agricultural industry. The up-skilling impact is more related to the pay structure, which will be maintained under AWO 2017. However, the diminishing differences between

Grade 1 and Grade 2 workers may discourage up-skilling to Grade 2 but should not affect people of up-skilling to higher Grades. The potential increase in labour cost may to some extent negatively affect the provision of up-skilling by employers.

## **6.5: 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 the two policy scenarios are not the full difference between AWO 2016 and 2017; the differences in labour minimum wage rates also take account of the forthcoming changes in NMW and NLW from April 2017.

Potential costs which 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 £1.2 million per annum. This is the estimate for additional earnings under AWO 2017 also taking account of changes in NMW/NLW from April 2017.
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 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 administrative costs accruing to the Welsh Government would be broadly similar under both options as the Welsh Government is already enforcing the AWO regime which has been preserved under the 2014 Act assuming no changes in the volume of case work to investigate each year.

Potential benefits which are additional to Option 2 include:

1. *Earnings*: The proposed minimum wage rate changes are estimated to transfer some £1.2 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 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 2017 minimum wage rates are higher than NMW and NLW and maintains a privilege rate not universally enjoyed 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 2016. It is reasonable to conclude Option 2 could be more likely to support up-skilling within the sector, as well as potentially having a positive impact on efficiency. However, this up-skilling 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.

Overall, 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 up-skilling within the industry. However, this up-skilling 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

## **8. 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. The pay rates were further raised in the AWO 2016. It is important to acknowledge though these rates only set statutory minimum wage levels and 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 agriculture in Wales is dominated by small businesses (18% employing 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 negatively 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 which employed labour across different farm size and type. The study suggested the average labour cost (for paid labour) was around 18% of the total inputs and no statistically significant differences were found between different farm sizes.

**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. It is therefore assumed there will only be a small number of small farm businesses which would be affected by labour cost increases.

#### 1. *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 (2015-2016) suggests lowland dairy farms are potentially most affected by increases in pay rises as labour costs accounted for 22% of their total input while for the other livestock farms labour costs only accounted for 4-6% of their cost base (see Table).

**Table 6 : Labour cost as a percent of total input for farm businesses in Wales by sector (2015-2016)**

Farm type	Paid Labour (£)	Total input (£)	Share of labour cost
Hill Cattle and Sheep Farms	4,755	98,453	5%
Hill Sheep Farms	3,807	78,226	5%
Upland Cattle and Sheep Farms	3,445	79,647	4%
Lowland Cattle and Sheep Farms	3,235	67,421	5%
Hillland Upland Dairy Farms	14,134	249,849	6%
Lowland Dairy Farms	28,400	127,283	22%

Source: Calculated from Farm Business Survey (FBS) data for Wales (2015/2016)

Agricultural statistics for Wales suggests there are 2,079 lowland dairy farms in 2015. These farms are likely to be the most affected by the labour cost increases.

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 2015-16 suggests there is variation across the major farm types. For dairy farms, the average farm business income was around £33,000 and cattle and sheep farms in the Less Favoured Area (LFA) around 22,000<sup>16</sup>.

Research work by the Wales Rural Observatory suggests what these farm profit figures mean changes according to the farm size<sup>17</sup>. This survey is now rather dated, but the overall pattern of the results is still relevant.

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, 56% of all farms either made a loss or would have done so without subsidy in year 2015-16 (see Figure 1). The level of dependence varies between farm types. In 2015-16, around 60% of cattle & sheep (LFA) farms either made a loss or would have done so without subsidy, compared with around 50% cattle & sheep (lowland) farms and around 40% of dairy farms. Subsidy was a small component of farm

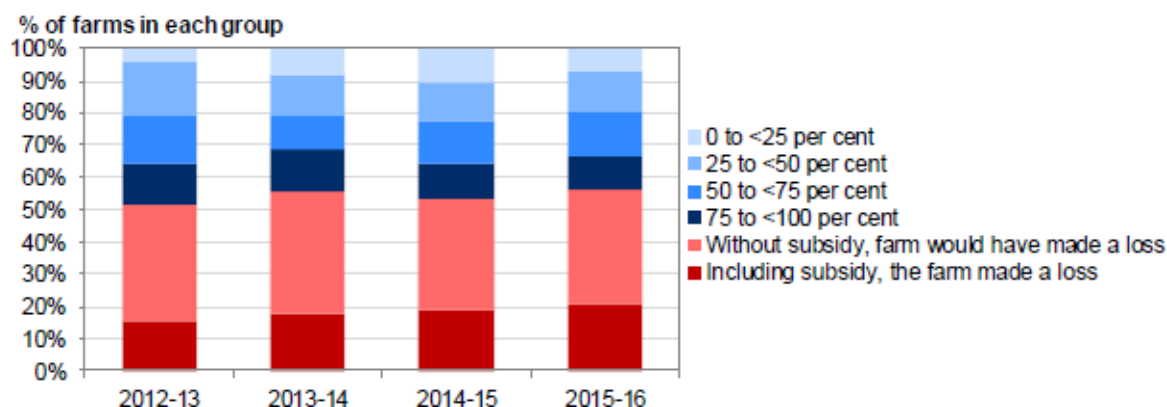
<sup>16</sup> Source: Welsh Government 2016. Statistics on Farm Incomes. Available at: <http://gov.wales/statistics-and-research/farm-incomes/?lang=en>. For dairy farms, there was a significant reduction (-53% from previous year) in farm business income in the year 2015-16 driven by a fall in milk price.

<sup>17</sup> Farm Household Income Survey, published by the Wales Rural Observatory [http://www.walesruralobservatory.org.uk/sites/default/files/SurveyFarmingHouseholdsWales2010\\_0.pdf](http://www.walesruralobservatory.org.uk/sites/default/files/SurveyFarmingHouseholdsWales2010_0.pdf)

business income (less than 25%) on 3% of cattle & sheep (LFA) farms, compared with 26% of dairy farms.<sup>18</sup>

As a wider context, this dependence on subsidy can leave farms vulnerable to changes to policy especially after Brexit.

**Figure 1: Variation in subsidies\* as a share of farm business income in Wales**



Source: Farm Business Survey Quoted in Statistics Release on Farm Incomes in Wales 2015-2016.

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 the greater increase in cost base associated with AWO 2017 when compared to baseline will have more pronounced impacts.

## 9. Duties

### 1: Equality Impact Assessment

In 2013, some 16 % of all farm workers in the Welsh agriculture were female.<sup>19</sup> However, some 28 % of regular part time workers were female. Both options involve the retention of contractual protections, and there would not appear to be significant differences in their impacts on relative gender positioning within the agricultural labour market.

There is no evidence to suggest a significant differential impact on disabled people, or in relation to gender and gender reassignment, religion and belief and non-belief, sexual orientation, pregnancy and maternity or civil partnerships.

<sup>18</sup> Source: Farm Business Survey Quoted in Statistics Release on Farm Incomes in Wales 2015-2016. Available at: <http://gov.wales/statistics-and-research/farm-incomes/?lang=en>

<sup>19</sup> Welsh Government, Welsh Agricultural Statistics, 2012 and 2013 [online] <http://gov.wales/docs/statistics/2014/141113-welsh-agricultural-statistics-2012-2013-ency.pdf> pp. 56-57 [accessed on 11 June 2015], authors' calculations. No data available for salaried managers.



A full Equality Impact Assessment has been prepared.

### *2: The Welsh language*

The agricultural sector has economic and social importance in rural areas and high levels of Welsh language usage and proficiency. While both options will have some impact on employment totals and conditions in such areas, the differences in terms of language impact are likely to be small.

The full Welsh Language Impact Assessment has been prepared.

### *3: Sustainable Development*

As is the case for language impact, differences between the impacts of both options are likely to be relatively small in scale, and will depend on the mechanisms by which the sector absorbs any increases to its cost base.

## **10. Consultation**

The Panel undertook a targeted consultation, on the new proposed rates during the Autumn of 2016. Key stakeholders including the farming unions, UNITE, agricultural colleges and industry bodies were among those targeted. Two responses were received and these were discussed at a Panel meeting on the 24th of October. Following deliberations, no changes were adopted.

## **11. Competition Assessment**

Please see Annex C.

## **12. Post implementation review**

The Welsh Government will monitor the impact of the 2017 Order, and any subsequent orders proposed by the Panel, on the agricultural sector, in particular recording any changes in the number of workers, monitoring the number of workers attending training and the number of apprentices attending Welsh institutions. The Welsh Government will continue to have a dialogue with key stakeholders and collate feedback on the impact of the new legislation. A helpline number will continue to be operational in order to respond to queries related to the 2017 Order and the applicable provisions of the AMW regime. All of this information will help to assess the effectiveness of the order.

The implementation of the 2014 Act is presently being reviewed as part of the statutory requirement stipulated by the 2014 Act. Section 13 specifies that the Welsh Ministers must produce a report on the operation and effect of the Act as soon as practicable once three years of the Act receiving Royal Assent have

passed, which was the 30 July 2017. The report will contain information on the impact of the Act on agricultural workers, employers and the industry in general. The report will be laid before the National Assembly for Wales and published by the Welsh Government.

## APPENDIX A: Supporting Calculations for Cost and Benefit Estimates

### 1. Employment Data

**Table 7: Persons engaged in work on agricultural holdings, Wales (2015)**

Type of Labour	Number of people
Total farmers, partners, directors and spouses: (a)	
Full-time	19,307
Part-time ( b)	22,312
Total	<b>41,619</b>
Farm workers:	
Regular full-time (c)	4,638
Regular part-time (b) (c)	4,492
Seasonal or casual workers	7,570
Total farm workers	<b>16,700</b>
<b>Total labour force</b>	<b>58,319</b>

Source: Welsh Government, Welsh Agricultural Statistics, 2015 [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 (2015)**

Type of labour	No. of people	of 2015
Full-time	Regular full-time farm workers*	4,638 28%
Part-time	Regular part-time farm workers	4,492 27%
Casual	Seasonal or casual workers	7,570 45%
Total waged labour force		16,700 100%

Note: \* including salaried managers

Source: Figures for farm workers by type are from Welsh Government, Welsh Agricultural Statistics, 2015 [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 2015.

**Table 10: Number of workers at each AWO grade, estimated for Wales 2015 (a)**

Grade	Full-time	Part-time	Casual
Grade 1	278	629	2,952
Grade 2	1,809	2,830	4,618
Grade 3	417	314	
Grade 4	1,391	494	
Grade 5	510	135	
Grade 6	232	45	
<b>Total</b>	<b>4,638</b>	<b>4,447</b>	<b>7,570</b>

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 12 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 2016 and 2017 for the agricultural industry and the increases in wage rates by grade for both basic and overtime pay.

**Table 13: AWO hourly pay rates, 2016 and 2017**

Grade or category of worker	Basic pay 2016	Basic pay 2017	Basic pay increase	Overtime pay increase**
Grade 1 worker (aged 25+)	£7.50	£7.51	0.01	0.02
Grade 2 worker	£7.50*	£7.54	0.04	0.06
Grade 3 worker	£8.12	£8.22	0.09	0.14
Grade 4 worker	£8.72	£8.82	0.10	0.15
Grade 5 worker	£9.23	£9.34	0.11	0.16
Grade 6 worker	£9.97	£10.09	0.11	0.16

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

Note: \*This is rate of NMW which will come into effect from April 2017.

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

Table 14 combines data in Table 8, Table 10 and 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	£5,644	£1,331	£6,965	£0	£7,824	£12,843	£34,606
2	£146,731	£34,612	£125,379	£0	£48,948	£8,035	£436,018
3	£76,187	£17,972	£31,345	£0	£0	£0	£125,504
4	£282,176	£66,562	£54,729	£0	£0	£0	£403,466
5	£113,811	£26,847	£16,419	£0	£0	£0	£157,076
6	£51,732	£12,203	£5,473	£0	£0	£0	£69,408
<b>Total (£)</b>	<b>£676,282</b>	<b>£159,526</b>	<b>£240,309</b>	<b>£0</b>	<b>£56,771</b>	<b>£93,190</b>	<b>£1,162,462</b>

## 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 equals change of supply of labour in percentage / change of wage in percentage. Therefore:

Change of supply of labour in percentage equals wage elasticity\*change of wage in percentage;

Absolute change in labour supply equals 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	3,859	-0.19	0.13%	-1
Grade 2 workers	9,257	-0.19	0.5%	-9
Grade 3 workers	3,539	-0.19	1.0%	-7
<b>Total</b>	-	-	-	<b>-17</b>

**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	3,859	-0.03	0.13%	-0.2
Grade 2 workers	9,257	-0.03	0.5%	-1.4
Grade 3 workers	3,539	-0.03	1.0%	-1.1
<b>Total</b>	-	-	-	<b>-2.7</b>

## APPENDIX C: The Competition Assessment

### Answers to the competition filter test

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