

Explanatory Memorandum to the Agricultural Sector (Wales) Act 2014 (Consequential Modification) Order 2015

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 Sector (Wales) Act 2014 (Consequential Modification) Order 2015

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Deputy Minister for Farming and Food

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1. Description

The Agricultural Sector (Wales) Act 2014 (the 2014 Act) maintains the statutory agricultural minimum wage (AMW) regime in Wales following the abolition of the Agricultural Wages Board (AWB) for England and Wales. In particular, the Act preserves the effect of the Agricultural Wages (England and Wales) Order 2012 in relation to Wales only. The Act provides Welsh Ministers with the power to establish an Agricultural Advisory Panel for Wales.

Pursuant to section 2 of the 2014 Act, an Agricultural Advisory Panel would have the functions of promoting careers in agriculture, preparing agricultural wages orders in draft for the approval of the Welsh Ministers and advising the Welsh Ministers on matters related to the agricultural sector, if required. The development of the Agricultural Advisory Panel is ongoing and it is expected that the Panel will be put in place by early 2016.

The Welsh Ministers also have the power to introduce an agricultural wages order before the Agricultural Advisory Panel is established. Public consultation on whether such an order should be introduced and if so, the provisions it should contain opened on 11 May and closed on 3 August 2015. In line with the consultation responses, it is proposed that an agricultural wages order will be made by the Welsh Ministers.

The proposed Order would replace the Agricultural Wages (England and Wales) Order 2012 which is still applicable in Wales under the provisions of the 2014 Act and would stay in force until the Panel is established and a new wages order is made on the basis of the Panel's proposals.

A consequential modification of section 46(4) of the National Minimum Wage Act 1998 (the NMW Act) is required to ensure that no person is prosecuted under both sets of legislation for an offence arising out of the same conduct.

The Agricultural Sector (Wales) Act 2014 (Consequential Modification) Order 2015 modifies section 46(4) of the NMW Act 1998 by adding a reference to the 2014 Act. Essentially the modification will list the 2014 Act amongst the other agricultural wages legislation already listed in section 46(4) of the NMW Act 1998.

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

Section 16 of the 2014 Act (Ancillary provision) enables the Welsh Ministers to make orders for the purposes of, or in connection with giving full effect to the Act. This might be used, for example, to make consequential modifications to other UK legislation.

Pursuant to section 17 of the 2014 Act, the Order will be subject to the affirmative procedure.

3. Legislative background

The power to make the Order is contained in section 16 of the 2014 Act. It is a power to make such incidental, consequential and supplemental provisions as they consider appropriate for the purposes of, or in connection with, giving full effect to the 2014 Act. An order made under section 16 may modify an Act of Parliament

4. Purpose & intended effect of the legislation

The intended effect of the Agricultural Sector (Wales) Act 2014 (Consequential Modification) Order is to ensure that no person can be prosecuted for an offence under both the NMW Act and the 2014 Act for offences arising out of the same conduct.

Future agriculture wages orders will set pay levels and other minimum terms and conditions of employment for workers in the agricultural sector in relation to Wales. The Welsh Ministers retain the power to enforce the provisions of agricultural wages orders introduced under the 2014 Act.

5. Consultation

There was no public consultation on the Agricultural Sector (Wales) Act 2014 (Consequential Modification) Order. The Order introduces a legislative change which is consequential and required prior to the introduction of agricultural wages orders made under the 2014 Act.

The Welsh Government consulted on proposals for an interim agricultural wages order between 11 May and 3 August 2015. The responses supported the introduction of such an order.

6. Regulatory Impact Assessment (RIA)

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As the Order has no impact on businesses and does not impose costs and/or savings on the public, private, charities and voluntary sectors, no Regulatory Impact Assessment has been prepared.