

# The Agricultural Wages (England and Wales) Order 2012

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# The Agricultural Wages (England and Wales) Order 2012

Made..... 20 July 2012

Coming into force.....1 October 2012

The Agricultural Wages Board for England and Wales, having given public notice of its proposed Order and of the manner in which and the time within which objections to it might have been lodged and having considered objections to it, makes the following Order in exercise of the powers conferred on it by sections 3 and 7 of the Agricultural Wages Act 1948 and section 67 of the Agriculture Act 1967:

## Part 1: General

### 1. Citation commencement and extent

(1) This Order may be cited as the Agricultural Wages (England and Wales) Order 2012 and comes into force on 1 October 2012.

(2) This Order applies to every worker employed in agriculture in England and Wales.

### 2. Interpretation

(1) In this Order unless the context requires otherwise:

“agriculture” includes dairy-farming, the production of any consumable produce which is grown for sale or for consumption or other use for the purposes of a trade or business or of any other undertaking (whether carried on for profit or not), and the use of land as grazing, meadow or pasture land or orchard or osier land or woodland or for market gardens or nursery grounds;

“agricultural wages committee” means an agricultural wages committee established under the Agricultural Wages Act 1948;

“basic hours” means the hours a worker is required to work each week under the worker’s contract of service or apprenticeship that are not required to be paid as overtime by this Order;

“Board” means the Agricultural Wages Board for England and Wales as established by the Agricultural Wages Act 1948;

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

"employment" means employment under a contract of service or apprenticeship, and the expressions “employed” and “employer” shall be construed accordingly;

“guaranteed overtime” means overtime which a worker is obliged to work under their contract of employment and in respect of which the worker’s employer guarantees payment to the worker, whether or not there is work for the worker to do;

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

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

“normal working day” means any day when a worker would normally be required to work under their contract of employment other than a day worked solely as overtime;

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

“other accommodation” means any living accommodation other than a house which:

- (a) is fit for human habitation;
- (b) is safe and secure;
- (c) provides a bed for the sole use of each individual worker; and
- (d) provides in readily accessible places for all workers, wholesome drinking water, suitable and sufficient sanitary conveniences and washing facilities (the minimum numbers and standards of such facilities for men and women being in accordance with regulations 20 to 22 of The Workplace (Health, Safety and Welfare) Regulations 1992 (as amended) and the Approved Code of Practice to those Regulations (L.24)) as if the living accommodation was a workplace to which regulations 20 to 22 of those Regulations applied;

“other overtime” means overtime (other than guaranteed overtime) worked by a worker under their contract of employment;

“qualified former council apprentice” means a worker who has a Certificate of Proficiency in one or more crafts from the Agricultural Apprenticeship Council or a Certificate of Completion of Apprenticeship from the Scottish Apprenticeship Council for Agriculture and Horticulture for an apprenticeship that started on or after 1 April 1969;

“relevant agricultural sector” means the sector in which a worker is working at the time when the worker enters grade 2, 3 or 4 (as the case may be) in their current employment;

"relevant training" means work experience provided pursuant to a training course or programme, training for employment, or both, other than work experience or training:

(a) the immediate provider of which is an educational institution or a person whose main business is the provision of training, and

(b) which is provided on a course run by that institution or person;

“sickness absence” means the absence of a worker from work due to the worker’s incapacity by reason of:

(a) any illness suffered by the worker;

(b) illness or incapacity caused by the worker’s pregnancy or maternity;

(c) an injury that occurs to the worker at the worker’s place of work;

(d) an injury that occurs to the worker when travelling to or from their place of work;

(e) time spent by the worker recovering from an operation caused by an illness; or

(f) time spent by the worker recovering from an operation in consequence of an injury suffered at their place of work or an injury suffered whilst travelling to or from their place of work

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

“worker” means a worker employed in agriculture;

“working time” means:

(a) any period during which the worker is working or at their employer’s disposal and carrying out their employer’s activities or duties;

(b) any period during which the worker is receiving relevant training; and

(c) any additional period which the worker and employer agree shall be treated as working time;

and “work” shall be construed accordingly.

(2) References in this Order to a period of continuous employment are to a period of continuous employment computed in accordance with the provisions of sections 210 to 219 of the Employment Rights Act 1996.

## **Part 2: Grades and categories of workers**

### **3. Grades and categories**

Every worker to whom this Order applies shall for each employment in agriculture be employed in one of the grades or categories specified in this Part.

### **4. Initial grade – grade 1**

Any worker whose employment in agriculture is not within any of the other specific grades or categories of worker listed in this Part shall be employed in the initial grade.

### **5. Standard worker – grade 2**

(1) A worker is a standard worker if:

- (a) the worker holds any one of the vocational qualifications specified in Schedule 1 and has disclosed such a vocational qualification to their employer in accordance with article 13;
- (b) the worker:
  - (i) holds any one of the NPTC certificates of competence, QCF awards or QCF certificates for the relevant agricultural sector marked with a tick under the grade 2 heading in Schedule 2A (or holds an equivalent qualification specified in paragraph (2));
  - (ii) has disclosed that NPTC certificate of competence, QCF award or QCF certificate to their employer in accordance with article 13; and
  - (iii) unless they rely on a certificate pursuant to article 14(3), the worker's grade 2 work requires (to any extent) the use of the competence to which the certificate or award relates; or
- (c) in the course of the worker's employment the worker:
  - (i) works wholly or mainly without their supervisor being present at the place where the worker carries out their work; or
  - (ii) works with animals; or
  - (iii) is in control of powered machinery; or
  - (iv) drives an agricultural tractor.

(2) For the purpose of sub-paragraph 1(b)(i), a worker may rely upon an equivalent qualification as specified in article 14(3) if the worker has disclosed that equivalent qualification to their employer in accordance with article 13.

## **6. Lead worker – grade 3**

(1) A worker is a lead worker if the worker has been working in agriculture for an aggregate period of at least two years in the last five years (including time spent under instruction or training) and:

(a) one of the conditions in paragraph (2) is satisfied; or

(b) all of the conditions in paragraph (3) are satisfied.

(2) For the purposes of sub-paragraph (1)(a) the conditions to be satisfied by a worker are that:

(a) the worker holds any one of the vocational qualifications specified in Schedule 3 and has disclosed such vocational qualification to their employer in accordance with article 13; or

(b) subject to paragraph (4), the worker holds a total of four NPTC certificates of competence (including any mandatory competences) specified for grade 3 in the relevant agricultural sector as shown in Schedule 2A and has disclosed such certificates of competence to their employer in accordance with article 13.

(3) For the purposes of sub-paragraph (1)(b) the conditions to be satisfied by the worker are that the worker:

(a) works as part of a team of workers;

(b) is responsible for leading that team of workers and for monitoring those workers for compliance with management instructions given by or on behalf of their employer;

(c) is not authorized to take disciplinary action in relation to any worker; and

(d) is designated by their employer as a grade 3 team leader and since being so designated, if the worker's employer requires, satisfactorily completes a trial period as a designated team leader (but any such trial period shall not exceed a period of one month).

(4) For the purpose of sub-paragraph 2(b):

(a) two NPTC certificates of competence may be achieved by an equivalent qualification as specified in article 14(3) if the worker has disclosed that equivalent qualification to their employer in accordance with article 13; and

(b) a QCF award or a QCF certificate as shown in Schedule 2A shall be treated as equivalent to a corresponding NPTC certificate of competence in that Schedule.

## **7. Craft grade – grade 4**

(1) A worker is a craft grade worker if the worker:

- (a) meets the requirements in paragraphs (2) and (3); and
- (b) is not excluded by the provisions of paragraph (4).

(2) The requirement in this paragraph is met by a worker if:

- (a) the worker has been working in agriculture for an aggregate period of at least two years in the last five years (including time spent under instruction or training);  
or
- (b) the worker has been continuously employed for 12 months or more by the same employer since first obtaining the craft grade minimum entry requirement specified in paragraph (3).

(3) The requirement in this paragraph is met if the worker holds and has disclosed to their employer in accordance with article 13, one of the following craft grade minimum entry requirements:

- (a) any one of the vocational qualifications from the list specified in Schedule 4;
- (b) any eight NPTC certificates of competence, including any mandatory NPTC competences (or any equivalent qualification in paragraph (5)) specified for grade 4 in the relevant agricultural sector as shown in Schedule 2A;
- (c) status as a qualified former council apprentice;
- (d) a valid Craft Certificate issued before 1 June 1986 by an agricultural wages committee;
- (e) a valid Proficiency Test Craft Certificate or Certificate of Qualification issued on or after 1 June 1986 by the National Proficiency Tests Council, confirming that the worker has passed the appropriate and required number of National Proficiency Tests Council activity tests or a National Vocational Qualification at level 3 which in either case at the time the qualifications were obtained, would have entitled the worker to craft grade minimum rates of pay under any previous Agricultural Wages Order made by the Board;
- (f) a valid certificate issued by the Agricultural Training Board for a former apprentice;
- (g) a valid Craft Certificate issued by an agricultural wages committee on the basis of an employer's declaration in respect of a worker employed in agriculture before 29 May 1972; or
- (h) a valid certificate or other document demonstrating that a qualification has been obtained which, at the time the qualification was obtained, would have entitled the worker to craft grade minimum rates of pay under a previous Agricultural Wages Order made by the Board.

(4) A worker is excluded from the craft grade where:

- (a) the worker's qualifications or Craft Certificate relate solely to forestry crafts but the worker is not working wholly or mainly at such crafts;
- (b) the worker's qualifications or Craft Certificate do not relate to forestry when the worker is working in the production of timber or in the use of land as woodland (unless such production or use is ancillary to the use of land for other agricultural purposes); or
- (c) the craft grade minimum entry requirement specified in paragraph (3) and relied upon by the worker was obtained whilst in continuous employment with the worker's current employer unless the worker is working wholly or mainly at the craft covered by the qualification.

(5) For the purpose of sub-paragraph 3(b):

- (a) two NPTC certificates of competence may be achieved by an equivalent qualification as specified under article 14(3) if the worker has disclosed that equivalent qualification to their employer in accordance with article 13; and
- (b) a QCF award or a QCF certificate as shown in Schedule 2A shall be treated as equivalent to a corresponding NPTC certificate of competence in that Schedule.

#### **8. Supervisory grade – grade 5**

A worker is a supervisory grade worker if the worker has:

- (a) day-to-day responsibility for supervising the work carried out on a farm (or part of a farm) and for implementing management decisions, including responsibility for disciplining staff; or
- (b) responsibility for the instruction and supervision of staff, including responsibility for disciplining staff.

#### **9. Farm management grade – grade 6**

A worker is a farm management grade worker if the worker has:

- (a) management responsibility for an entire farm or management responsibility for part of the same farm which is run as a separate operation or business; or
- (b) responsibility for employing, disciplining and dismissing staff or responsibility for making recommendations to their employer for the dismissal of staff that the worker manages directly.

#### **10. Full-time flexible worker**

A worker is a full-time flexible worker if the worker has:

- (a) entered into a written agreement (a Flexible Working Agreement) with a minimum duration of at least one year, to follow normally a pattern of flexible working;
- (b) if requested, had trade union representation in any discussions leading up to the worker signing a Flexible Working Agreement;
- (c) been contracted under their Flexible Working Agreement to work for 39 basic hours a week, or 39 basic hours a week when averaged over a period of two weeks or, as the case may be, averaged over a period of three weeks and those basic hours are to be worked over four, five or six days per week;
- (d) a Flexible Working Agreement that stipulates working hours and working days and that agreement does not allow either the employer or the worker to change the normal working hours or working days without the agreement of the other;
- (e) a Flexible Working Agreement that does not require the worker to work more than ten basic hours of work on any one day; and
- (f) under the terms of their Flexible Working Agreement a requirement:
  - (i) to work on a Sunday at their basic rate of pay; and
  - (ii) that where a Sunday is worked, the worker shall not be required to work on one other day during that week.

#### **11. Part-time flexible worker**

A worker is a part-time flexible worker if the worker has:

- (a) entered into a written agreement (a Flexible Working Agreement) with a minimum duration of at least one year, to follow normally a pattern of flexible working;
- (b) if requested, had trade union representation in any discussions leading up to their signing a Flexible Working Agreement;
- (c) been contracted under their Flexible Working Agreement to work for fewer than 39 basic hours per week;
- (d) a Flexible Working Agreement that stipulates working hours and working days and that agreement does not allow either the employer or the worker to change the normal working hours or working days without the agreement of the other; and
- (e) a Flexible Working Agreement with a requirement for the worker:
  - (i) to work their basic hours on six days a week;
  - (ii) to work on a Sunday (not paid at overtime rates); or

- (iii) to work basic hours of more than eight and fewer than ten on at least one day a week.

## **12. Transitional provisions for flexible workers**

(1) A worker who was a flexible worker under the provisions of any previous Order made by the Board shall, for so long as that engagement as a flexible worker subsists, continue in that category and the provisions of this Order relating to flexible workers shall apply accordingly.

(2) The provisions of this Order relating to flexible workers shall have no effect in relation to any employment of a worker purporting to be in the flexible worker category under any previous Order made by the Board where a Flexible Working Agreement was entered into at any time within the period which began on 1 October 2009 and ended on 30 September 2010.

## **13. Entry to a grade dependent on certificates or qualifications**

(1) Where entry into one of the grades specified in this Part depends on a worker holding a qualification, certificate or other document, the worker is entitled to enter the applicable grade only if:

- (a) they inform their employer of the specified qualification, certificate or document which they hold and which entitles them to enter the grade concerned; and
- (b) where the employer asks in writing for confirmation that the worker holds the appropriate qualification, certificate or other document entitling them to enter that grade, shows the employer documentary proof of that entitlement.

(2) Where paragraph (1) applies, entitlement to enter the grade is effective from (but not before) the date when the worker informs their employer in accordance with the requirement set out in sub-paragraph (1)(a), or if the worker is required to produce documentary evidence under sub-paragraph 1(b), from the date when such evidence is produced to the worker's employer.

## **14. Deemed competences for a grade 3 team leader**

(1) A worker who is designated as a team leader by their employer in accordance with article 6(3) is deemed for the purposes of this Order to hold the two non-accredited competences specified in Schedule 2B from the date of such designation, or where a trial period is required under that article, from the date of the satisfactory completion of that trial period, whichever occurs later.

(2) Upon being deemed to hold the two non-accredited competences in accordance with paragraph (1), a certificate in the form and style specified in Schedule 6 shall be duly completed by the employer and provided to the worker.

(3) For the purposes of entry to grades 2, 3 or 4 under this Part, a worker who holds a certificate in accordance with paragraph (2) (or who holds the equivalent certificate under any previous Agricultural Wages Order made by the Board) shall be treated as holding a total of two of the required number of non-mandatory certificates or awards as

specified in Schedule 2A for entry to each of those grades and such a certificate is valid for use by the worker in any agricultural sector.

(4) A worker holding two or more certificates pursuant to paragraphs (2) or (3) (whether from the same or different employments) shall for the purposes of this Order be treated as if only one of those certificates is held and only the first certificate so obtained shall have effect under this Order.

### **15. Trainees**

(1) A trainee is a person who is principally engaged for the purposes of undertaking training or work experience (including training or work experience as a non-employed apprentice or a programme-led apprentice) and that person:

- (a) is participating in an agricultural training scheme approved by the Secretary of State for Business, Innovation and Skills as training for young people and provided under a contract which in England is with the Young People's Learning Agency and which in Wales is with the Department for Education and Skills;
- (b) was a trainee under the provisions of any previous Order made by the Board and is continuing that training engagement with their work experience provider;
- (c) is undertaking work experience in agriculture required as part of the Diploma in Environmental and Land-based Studies for 14-19 year olds; or
- (d) whilst participating in the second phase of the European Leonardo da Vinci Programme is undertaking work in agriculture for their employer as part of that scheme.

### **16. Apprentices**

An apprentice is a worker who is employed under Government arrangements known in England as Apprenticeships or Advanced Apprenticeships and known in Wales as Foundation Modern Apprenticeships or Modern Apprenticeships.

## **Part 3: Minimum rates of pay – general principles**

### **17. Time for which a worker should be paid minimum rates of pay**

(1) A worker shall be paid no less than the minimum rate of pay as set out in this Order for their grade or category:

- (a) when they are working; or
- (b) (other than a worker who has a contract of employment which provides for payment at piece rates) when they are available at or near their place of work for the purpose of working and when they are required to be available for such work, except where:

- (i) the worker's home is at or near their place of work; and
- (ii) the time is time the worker is entitled to spend at home.

(2) Where a worker by arrangement sleeps at or near their place of work and is provided with suitable facilities for sleeping, time during the hours when the worker is permitted to use those facilities for the purpose of sleeping shall only qualify for pay under this Order if the worker is awake for the purpose of working.

(3) The minimum rates of pay prescribed under this Order do not apply to any period when during their working hours a worker is taking a rest break or meal break to which they are entitled.

## **18. Travelling**

(1) Subject to the provisions of this article, a worker shall be paid no less than the minimum rate of pay as set out in this Order for their grade or category when for the purposes of their duties they are travelling.

(2) For the purposes of paragraph (1), a worker is to be treated as travelling if, for the purposes of their duties, the worker:

- (a) is in the course of a journey whether on foot or by a means of transport;
- (b) is waiting at a point of departure to begin their journey by a means of transport;
- (c) breaks their journey by a means of transport and is waiting at a point of departure for their journey to re-commence, except for any time during such a period which the worker spends taking a rest break; or
- (d) is waiting at the end of a journey for the purpose of carrying out their duties or waiting to receive training under article 19, but not including any time which the worker spends taking a rest break before their duties are due to be carried out or before such training is due to be received.

(3) A worker is not to be treated as travelling if:

- (a) their normal work does not require assignment work (comprising travelling from one assignment to the next at places which are not occupied by the worker's employer);
- (b) the travelling is incidental to the worker's duties (in that the worker's duties carried out in the course of their work are not as a matter of necessity carried out in the course of the travelling, as would be the case where driving a tractor or combine harvester); and
- (c) the travel time is time when the worker would not otherwise be working.

(4) A worker is not to be treated as travelling if they are travelling (other than for the purposes of performing their work) between their home (or an address where the worker is temporarily residing) and their place of work or a place where assignment work as mentioned in sub-paragraph (3)(a) is to be carried out.

(5) Where a worker's hours of work vary (either as to their length or in respect of the time at which they are performed) and, as a result, it is uncertain in relation to particular time when they are travelling whether they would otherwise be working, that time shall for the purposes of sub-paragraph 3(c) be treated as time when they would otherwise be working.

## **19. Training**

(1) A worker shall be paid no less than the minimum rate of pay applicable to their grade or category as set out in this Order when:

- (a) during their normal working hours they are receiving training which has been approved by their employer (whether or not such training is at their normal place of work); or
- (b) during a period when they would otherwise be working, they are travelling between a place of work and another place where they are to receive such training as mentioned in sub-paragraph (a).

(2) Where a worker's hours of work vary (either as to their length or in respect of the time at which they are performed) and, as a result, it is uncertain in relation to particular time when the worker is attending at a place or travelling, whether the worker would otherwise be working, that time shall be treated for the purposes of paragraph (1) as time when the worker would otherwise be working.

## **20. Bad weather**

When bad weather prevents an employer from providing work for a worker to do under reasonable conditions the worker must be paid for any of their contractual hours of work which fall within that period of bad weather.

## **21. Piece work**

Where a worker's contract of employment provides for payment at piece rates, the worker's wages for each hour that they work must not be less than the hourly minimum rate of pay applicable to their grade or category under this Order (whether in respect of pay for basic hours or, as the case may be, for overtime hours).

## **22. Overtime (other than for flexible workers)**

(1) A worker (other than a full-time flexible worker or a part-time flexible worker) is entitled to be paid the minimum overtime rate applicable to their grade or category under this Order when the worker:

- a) works more than eight hours on any day with the same employer;

- b) works any hours beyond the working hours under their contract of employment;
- c) works on a public holiday or a bank holiday in England and Wales;
- d) works on a day agreed with their employer under the provisions of article 51 (payment in lieu of annual leave); or
- e) in any week (starting from midnight on a Saturday) works for more than 39 hours with the same employer, but in calculating those hours for the purposes of this sub-paragraph, account shall be taken only of those hours worked that do not qualify for payment of overtime by virtue of the provisions set out in sub-paragraphs (a) to (d).

(2) For the purposes of sub-paragraph 1(b), the working hours specified under the worker's contract of employment are their basic hours to be worked and hours of guaranteed overtime.

### **23. Overtime for workers (other than flexible workers) engaged before 1 October 2006**

(1) A worker (other than a full-time flexible worker or a part-time flexible worker) who remains engaged under a contract of employment which started before 1 October 2006 is entitled, in addition to any entitlement they have to overtime pay as specified in article 22, to be paid the minimum overtime rate applicable to their grade or category under this Order in respect of any work undertaken for their employer:

(a) on a Sunday; or

(b) in any period commencing on a Sunday and continuing into the following Monday, but if the worker normally works with that same employer on a Monday, overtime pay shall only be due to the worker to the extent that their work is carried out before the time on the Monday that the worker would normally start work with that employer.

(2) A contract of employment of a worker falling within paragraph (1) which started before 1 October 2006, shall for so long as that contract continues, still be regarded as an engagement which started before 1 October 2006 notwithstanding:

(a) any variation to the terms of that contract; or

(b) a change of employer in consequence of a relevant transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006.

### **24. Overtime for flexible workers**

(1) A worker who is a full-time flexible worker or a part-time flexible worker is entitled to be paid the minimum overtime rate applicable to their grade or category under this Order when the worker:

(a) works more than ten hours on any day with the same employer;

- (b) works any hours beyond the working hours under their contract of employment;
- (c) works on a public holiday or a bank holiday in England and Wales;
- (d) works on a day agreed with their employer under the provisions of article 51 (payment in lieu of annual leave);
- (e) in any week (starting from midnight on a Saturday) works for more than 39 hours with the same employer, but in calculating those hours for the purposes of this sub-paragraph, account shall be taken only of those hours worked that do not qualify for payment of overtime by virtue of the provisions set out in sub-paragraphs (a) to (d); or
- (f) in any week (starting from midnight on a Saturday) works for more than an average of 39 hours with the same employer (such average being calculated by reference to the two or three week period as specified in the worker's Flexible Working Agreement, as appropriate), but in calculating those 39 hours for the purposes of this sub-paragraph, account shall be taken only of those hours worked that do not qualify for payment of overtime by virtue of the provisions set out in sub-paragraphs (a) to (d).

(2) For the purposes of sub-paragraph 1(b), the working hours specified under the worker's contract of employment are their basic hours to be worked and hours of guaranteed overtime.

## **Part 4: Minimum rates of pay for workers in Grades 1-6**

### **25. Minimum rates of pay for grades 1–6 (other than flexible workers)**

A worker (other than a full-time flexible worker or a part-time flexible worker) employed in grades 1 to 6 shall be entitled to the minimum rate of pay applicable to their grade as shown in Table A in respect of basic hours worked for their employer.

**Table A**

<b>Minimum rates of pay for Grades 1-6</b>		
	<b>Weekly Pay</b> £/week	<b>Hourly Pay</b> £/hour
Grade 1 of compulsory school age	-	3.11
Grade 1 above compulsory school age	242.19	6.21
Grade 2	271.44	6.96
Grade 3	298.74	7.66
Grade 4	320.19	8.21
Grade 5	339.30	8.70
Grade 6	366.60	9.40

**26. Minimum rates of overtime pay for grades 1–6 (other than flexible workers)**

A worker (other than a full-time flexible worker or a part-time flexible worker) employed in grades 1 to 6 who is entitled to overtime under the provisions of articles 22 or 23 of this Order shall, in respect of those overtime hours, be entitled to the minimum hourly rate of overtime pay applicable to their grade as shown in Table B.

**Table B**

<b>Minimum rates of overtime pay for Grades 1-6</b>	
	<b>£/hour</b>
Grade 1 of compulsory school age	4.67
Grade 1 above compulsory school age	9.32
Grade 2	10.44
Grade 3	11.49
Grade 4	12.32
Grade 5	13.05
Grade 6	14.10

## 27. Minimum rates of pay for flexible workers in grades 1–6

A full-time flexible worker or a part-time flexible worker employed in grades 1 to 6 shall be entitled to the minimum rate of pay applicable to their grade as shown in Table C in respect of basic hours worked for their employer.

**Table C**

<b>Minimum Rates of pay for Flexible Workers Grades 1-6</b>			
	<b>Number of days on which basic hours worked</b>	<b>Weekly pay £/week</b>	<b>Hourly pay £/hour</b>
Grade 1	4 to 5	254.28	6.52
	6	258.96	6.64
Grade 2	4 to 5	285.09	7.31
	6	290.55	7.45
Grade 3	4 to 5	313.56	8.04
	6	319.80	8.20
Grade 4	4 to 5	336.18	8.62
	6	342.42	8.78
Grade 5	4 to 5	356.46	9.14
	6	363.09	9.31
Grade 6	4 to 5	384.93	9.87
	6	392.34	10.06

## 28. Minimum rates of overtime pay for flexible workers in grades 1–6

A full-time flexible worker or a part-time flexible worker employed in grades 1 to 6 who is entitled to overtime under the provisions of article 24 of this Order shall, in respect of those overtime hours, be entitled to the minimum hourly rate of overtime pay applicable to their grade as shown in Table D.

**Table D**

<b>Minimum rates of overtime pay for Grades 1-6</b>	
	<b>£/hour</b>
Grade 1	9.32
Grade 2	10.44
Grade 3	11.49
Grade 4	12.32
Grade 5	13.05
Grade 6	14.10

## **Part 5: Reckoning of benefits and advantages as payment of wages**

### **29. Benefits or advantages to be taken into account**

For the purposes of determining the minimum wages paid to a worker under this Order, the only benefits or advantages which may be reckoned as payment of wages in lieu of payment in cash are those benefits or advantages set out in this Part.

### **30. Weekly amount permitted to be taken into account where a house is provided**

(1) Where in any week an employer provides a worker with a house, the employer may, subject to paragraph (2), deduct the sum of £1.50 from the worker's minimum wage payable under this Order for that week, but only if the house has been provided to the worker for the whole of that week.

(2) Where an employer provides a worker with a house, an agricultural wages committee may in accordance with section 7(3) of the Agricultural Wages Act 1948 determine a different weekly amount from that prescribed in paragraph (1).

(3) Where the weekly amount for a house determined by an agricultural wages committee is different from that specified in paragraph (1), the employer may deduct from the worker's minimum weekly wage payable under this Order, the lesser of:

(a) the weekly amount determined by the agricultural wages committee; and

(b) the weekly amount calculated by multiplying £4.82 by the number of days in the week for which the house was provided.

### **31. Weekly amount permitted to be taken into account where other accommodation is provided**

(1) Subject to paragraph (2), where in any week an employer provides a worker with other accommodation, the employer may deduct the sum of £4.82 from the worker's minimum wage payable under this Order for each day in that week that the other accommodation is provided to the worker.

(2) The deduction in paragraph (1) may be made only in a week in which the worker has worked for a minimum of 15 hours for their employer and, for that purpose, any time during that week when the worker would otherwise be working, but is absent from work on account of any type of leave in respect of which payment is due to the worker under this Order, shall count towards those 15 hours.

## **Part 6: Allowances, grants and supplements**

### **32. Dog allowance**

(1) The dog allowance is a weekly amount payable to a worker by an employer who requires the worker to keep one or more dogs and where such an allowance is payable to the worker, it shall be paid in addition to the minimum rate of pay applicable to the worker's grade or category under this Order.

(2) The amount of the dog allowance is £7.63 a week for each dog.

### **33. On-call allowance**

(1) Subject to the provisions of this article, where a worker is on-call, they are entitled to an allowance for that on-call period in accordance with paragraph (2).

(2) The amount of the on-call allowance payable to a worker under paragraph (1) is a sum equivalent to two hours overtime pay at the rate applicable to the worker's grade or category under this Order.

(3) The on-call allowance is not payable to a worker if the worker is called upon by their employer to attend work pursuant to the on-call arrangements and the provisions of paragraph (4) shall then have effect.

(4) Where a worker is called upon by their employer to attend work pursuant to the on-call arrangement, that worker is entitled to be paid whichever is the greater of the following:

(a) pay at the minimum overtime rate applicable to the worker's grade or category under this Order for the hours worked in consequence of being on-call;  
or

(b) a sum equivalent to two hours overtime pay at the minimum rate applicable to the worker's grade or category under this Order.

### **34. Night work supplement**

(1) The night work supplement is payable to a worker by an employer for each hour of night work and is payable in addition to the applicable minimum rate of pay for those hours for the worker's grade or category under this Order.

(2) The amount of the night work supplement is £1.36 for each hour of night work.

### **35. Birth and adoption grant**

(1) Subject to satisfying the conditions in paragraph (2), a worker is entitled to receive a birth and adoption grant after the birth of their child or upon the worker adopting a child.

(2) The conditions to be satisfied by the worker under this paragraph are that:

(a) the worker is the child's parent or adoptive parent; and

(b) within three months of the child's birth or adoption the worker has given their employer a copy of the child's Birth Certificate or Adoption Order (naming the worker as the child's parent or adoptive parent).

(3) Where both parents (or adoptive parents) of the child are workers with the same employer, then subject to satisfying the conditions in paragraph (2), both workers are entitled to receive the birth and adoption grant in respect of the same child.

(4) The amount of the birth and adoption grant is £60.00 for each child.

(5) Payment of the birth and adoption grant shall be made by the employer on the next pay day after the week in which the worker provides a copy of the child's Birth Certificate or Adoption Order to their employer as required under sub-paragraph (2)(b).

## **Part 7: Terms and conditions for trainees and apprentices**

### **36. Non-employed trainees**

Trainees who are not engaged as employees in respect of the hours covered by their training contracts or work experience fall outside the provisions of this Order in respect of:

- (a) work undertaken by them pursuant to a training contract under an agricultural training scheme approved for any trainee as defined under any previous Agricultural Wages Order;
- (b) work undertaken by them pursuant to a training contract under an agricultural training scheme approved by the Secretary of State for Business, Innovation, and Skills as training for young people and provided under contract to the Young People's Learning Agency in England or the Department for Education and Skills in Wales;
- (c) work experience in agriculture required to be undertaken by them as part of the Diploma in Environmental and Land-based Studies for 14–19 year olds; or
- (d) their participation in the second phase of the European Leonardo da Vinci programme whilst undertaking work in agriculture for their employer as part of that scheme.

### **37. Overtime pay for trainees**

If during the currency of a trainee's training contract or work experience scheme a training provider or work experience provider employs a trainee to undertake work at the trainee's normal place of work and such employment falls outside the working hours specified under the trainee's training contract or work experience scheme as specified in article 36, the trainee shall be entitled for each of those additional hours of work to be paid not less than the minimum overtime rate applicable to their grade or category under this Order for that additional work.

### **38. Qualifying period for agricultural sick pay for trainees**

Where a trainee is employed on completion of their training contract or work experience, the time spent as a trainee with the same employer is to be taken into account for the purposes of article 61(a) as if the time spent as a trainee was a period of continuous employment.

### **39. Holidays and other leave for trainees**

A trainee shall not accrue any annual leave or any entitlement to other leave with pay specified in Part 10 of this Order in consequence of any hours worked by the trainee under their training contract or work experience scheme.

#### 40. Minimum rates of pay for apprentices in the first and second year of apprenticeship

(1) An apprentice in the first or second year of their apprenticeship shall be entitled to be paid the applicable minimum rate of pay as shown in Table E in respect of any work undertaken for their employer as an apprentice.

**Table E**

<b>Minimum rates of pay for an Apprentice</b>		
	<b>Weekly Pay (for 39 basic hours per week)</b>	<b>Hourly Pay £/hour</b>
<b>Age</b>	<b>Year 1 of an Apprenticeship/Advanced Apprenticeship</b>	
Any	139.23	3.57
	<b>Year 2 of an Apprenticeship/Advanced Apprenticeship</b>	
16–17	143.52	3.68
18–20	194.22	4.98
21+	241.41	6.19

(2) Subject to paragraph (3), an apprentice is entitled to be paid at the appropriate minimum overtime rate prescribed in Table F for each hour of overtime which they work as an apprentice.

**Table F**

<b>Minimum overtime rates of pay for an Apprentice</b>	
	<b>£/hour</b>
<b>Age</b>	<b>Year 1 of an Apprenticeship/Advanced Apprenticeship</b>
Any	5.36
	<b>Year 2 of an Apprenticeship/Advanced Apprenticeship</b>
16–17	5.52
18–20	7.47
21+	9.29

(3) For the purposes of determining whether an apprentice has sufficient working hours to qualify for overtime payable under article 22, time which the apprentice spends:

- (a) during their normal working hours when attending at College and receiving training which is required as part of their apprenticeship arrangements;

(b) attending training (whether or not at College) required as part of their apprenticeship arrangements; or

(c) travelling during their normal working hours between their place of work and a place where training is received as part of their apprenticeship arrangements;

shall be treated as hours worked by the apprentice.

(4) The minimum terms and conditions applicable to an apprentice in their first or second year of an apprenticeship (other than any term or condition relating to pay) shall be those terms and conditions that apply to a grade 2 standard worker.

#### **41. Minimum rates of pay for apprentices in the third and subsequent years of apprenticeship**

(1) An apprentice in their third and any subsequent year of an apprenticeship is entitled to receive the minimum rates of pay that apply to a grade 2 standard worker.

(2) The minimum terms and conditions applicable to an apprentice in their third and any subsequent year of an apprenticeship (other than any term or condition relating to pay) shall be those terms and conditions that apply to a grade 2 standard worker.

### **Part 8: Training costs**

#### **42. Fees and expenses for training**

(1) Subject to paragraphs (2) and (3) where a worker attends a training course approved by their employer, the employer shall pay:

(a) any fees for that course;

(b) any necessary expenses of the worker in travelling to or from that course;  
and

(c) any necessary expenses for board and lodging whilst the worker is attending the training course because the worker is required to be away from their usual place of residence.

(2) An employer is not required by this Order to pay for any training course undertaken by an apprentice as part of their apprenticeship scheme.

(3) Paragraph (1) shall not apply to an apprentice in respect of travel expenses or board and lodging expenses where any such expenses are funded through their apprenticeship scheme.

#### **43. Training for initial grade workers**

(1) This article applies to an initial grade worker who has been continuously employed for a period of 30 weeks by the same employer and who wishes to undertake training to enable them to gain the minimum vocational qualification or NPTC certificate of

competence, QCF award or QCF certificate required for entry to grade 2 as specified in article 5.

(2) Where this article applies, the employer is deemed to have given approval to the training under article 19 at the end of the period of 30 weeks continuous employment with the same employer and accordingly the employer shall pay the worker in accordance with that article and meet any training fees or expenses as required in article 42.

## **Part 9: Rest breaks**

### **44. Entitlement to rest breaks**

(1) Subject to paragraphs (3) and (4), where a worker who is aged 18 or over has daily working time of more than five and a half hours, the worker is entitled to a rest break.

(2) Unless the employer and the worker agree otherwise, the length of the rest break provided for in paragraph (1) is an uninterrupted period of not less than 30 minutes and the worker is entitled to spend that break away from their workstation (if they have one) or other place of work.

(3) Paragraph (1) does not apply in relation to a worker where, on account of the specific characteristics of the activity in which the worker is engaged, the duration of their working time is not measured or predetermined or can be determined by the worker, as may be the case for:

(a) managing executives or other persons with autonomous decision-taking powers;

or

(b) family workers.

(4) Subject to paragraph (5), the provisions relating to rest breaks as specified in paragraphs (1) and (2) do not apply to a worker where:

(a) the worker's activities are such that their place of work and place of residence are distant from one another or the worker's different places of work are distant from one another;

(b) the worker's activities involve the need for continuity of service or production;

(c) there is a foreseeable surge of activity;

(d) the worker's activities are affected by:

(i) an occurrence due to unusual and unforeseeable circumstances, beyond the control of the worker's employer;

(ii) exceptional events, the consequences of which could not have been avoided despite the exercise of all due care by the employer; or

(iii) an accident or the imminent risk of an accident; or

(e) the employer and worker agree to modify or exclude the application of paragraphs (1) and (2) in the manner and to the extent permitted by or under the Working Time Regulations 1998.

(5) Where paragraph (4) applies and a worker is accordingly required by their employer to work during a period which would otherwise be a rest break:

(a) the employer shall, unless sub-paragraph (b) applies, allow the worker to take an equivalent period of compensatory rest; and

(b) in exceptional cases in which it is not possible, for objective reasons, to grant such a period of rest, the worker's employer shall afford them such protection as may be appropriate in order to safeguard the worker's health and safety.

## Part 10: Holidays and other leave

### 45. Annual leave year

The annual leave year for all workers is the period of 12 months starting on 1 October and ending on 30 September.

### 46. Amount of annual leave for workers employed throughout the leave year

(1) A worker (other than a trainee in respect of any hours worked under their training contract or work experience scheme) who is employed by the same employer throughout the leave year shall be entitled to annual leave calculated in accordance with Table G and the provisions of this article.

**Table G**

Annual leave for workers who work for the whole annual leave year for the same employer							
Days worked each week by a worker	More than 6	More than 5 but not more than 6	More than 4 but not more than 5	More than 3 but not more than 4	More than 2 but not more than 3	More than 1 but not more than 2	1 or less
Annual leave entitlement (days)	38	35	31	25	20	13	7.5

(2) The days worked each week shown in Table G shall be calculated in accordance with paragraphs (3) and (4).

(3) Where a worker works their basic hours (and where applicable any guaranteed overtime) on a fixed number of days each week, the number of days worked each week to be used in Table G is that fixed number of days.

(4) Where a 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 to be used in Table G is to be calculated by:

(a) determining the period between the start of the leave year and the date immediately preceding the commencement of the worker's annual leave;

(b) calculating the number of qualifying days for the worker within the period specified in sub-paragraph (a); and

(c) dividing the number of qualifying days for the worker in the period by the number of weeks in which those qualifying days fell.

(5) For the purpose of this article, qualifying days are:

(a) any days on which the worker works basic hours for their employer or has guaranteed overtime from their employer; and

(b) any day when the worker would otherwise normally be working for their employer but for the fact that the worker was:

(i) on annual leave (whether contractual or under this Order);

(ii) taking other leave permitted under this Order;

(iii) taking any form of statutory entitlement to adoption leave, maternity leave or paternity leave; or

(iv) on sick leave (whether or not such leave is paid).

#### **47. Amount of annual leave for workers employed for part of the leave year**

(1) A worker (other than a trainee in respect of any hours worked under their training contract or work experience scheme) who is employed by the same employer for part of the leave year shall, subject to paragraph (2), be entitled to accrue annual leave at the rate of  $1/52^{\text{nd}}$  of the amount specified in Table G for each completed week of service with the same employer.

(2) Where the amount of leave that has accrued in a particular case includes a fraction of a day other than a half-day, that fraction shall be rounded down to the next whole day if it is less than half a day and shall be rounded up to the next whole day if it is more than a half-day.

#### **48. Timing of holidays**

(1) Subject to the provisions of this article a worker may take annual leave to which he is entitled under this Order at any time within the annual leave year.

(2) A worker's entitlement to take annual leave under this Order shall be subject to obtaining their employer's approval in advance as to the date or dates upon which the leave is to be taken.

(3) A worker shall not be entitled to carry forward from one leave year to the next following leave year any untaken annual leave entitlement under this Order, unless otherwise agreed with their employer.

(4) Where an employer has agreed that a worker may carry forward any unused annual leave entitlement under this Order, such carried forward annual leave may be taken only in the leave year to which it is carried forward and before any other annual leave under this Order is taken by the worker in that year.

(5) In the period from 1 October to 31 March in a leave year an employer may require a worker to take up to two weeks of that worker's annual leave entitlement under this Order and may direct that the worker takes one of those two weeks of annual leave on days in the same week.

(6) In the period from 1 April to 30 September in a leave year an employer shall permit a worker to take two weeks of the worker's annual leave entitlement under this Order in consecutive weeks.

(7) For the purpose of this article, one week of a worker's annual leave is equivalent to the number of days worked each week by the worker as determined in accordance with article 46.

#### **49. Holiday pay**

(1) A worker is entitled to holiday pay in accordance with this article in respect of each day of annual leave taken by them under this Order.

(2) The amount of holiday pay to which a worker is entitled under paragraph (1) is to be calculated in accordance with paragraphs (3) to (6).

(3) The amount of holiday pay for each day of annual leave is calculated by dividing the worker's weekly wage as determined in accordance with paragraph (4), or as the case may be paragraph (5), by the number of days worked each week by that worker for their employer, (as determined in accordance with article 46).

(4) Where the worker's gross pay each week (excluding any pay attributable to other overtime) does not vary, the amount of the worker's weekly wage for the purposes of paragraph (3) is the amount which is payable by the employer under the worker's contract of employment (excluding any pay attributable to other overtime) if the employee works throughout their contractual hours in a week.

(5) Where the worker's gross pay (excluding any pay attributable to other overtime) varies from week to week, the amount of the worker's weekly wage for the purposes of paragraph (3) shall, subject to paragraph (6), be the worker's average weekly wage in a period of 12 weeks calculated by:-

(a) adding together the amount of the worker's gross pay (excluding any pay attributable to other overtime) in each of the 12 weeks immediately preceding the commencement of the worker's annual leave; and

(b) dividing by 12, the total gross pay ascertained under sub-paragraph (a).

(6) For the purposes of the calculation in paragraph (5), where a worker has been employed by their employer for less than 12 weeks, account shall be taken only of weeks in which pay was due to the worker.

(7) Payment of any holiday pay due to a worker under this article shall be made no later than the worker's last working day before the commencement of the period of annual leave to which the payment relates.

## 50. Public holidays and bank holidays

(1) This article applies where a public holiday or bank holiday in England and Wales falls on a day when a worker is normally required to work under their contract of employment.

(2) A worker required by their employer to work on the public holiday or bank holiday is entitled to be paid not less than the overtime rate applicable to their grade or category for the hours worked on that public holiday or bank holiday.

(3) A worker who is not required by their employer to work on the public holiday or bank holiday shall have the balance of their accrued annual leave for that leave year under this Order reduced by one day in respect of the public holiday or bank holiday on which the worker is not required to work.

## 51. Payment in lieu of annual leave

(1) Subject to the provisions of Table H and paragraph (2), a worker and their employer may by agreement specify a day in respect of which the worker is to work and in respect of which the worker will receive a payment as specified in sub-paragraph (4)(d) in lieu of a day of the worker's accrued annual leave entitlement under this Order.

(2) The maximum number of days of the worker's annual leave for which a payment in lieu may be made under this article is shown at Table H.

**Table H**

Maximum number of annual leave days that may be paid in lieu under this Order							
Days worked each week	More than 6	More than 5 but not more than 6	More than 4 but not more than 5	More than 3 but not more than 4	More than 2 but not more than 3	More than 1 but not more than 2	1 or less
Maximum number of annual leave days under this Order that may be bought out	10	7	3	2.5	2.5	1.5	1.5

(3) Where there is an agreement made pursuant to paragraph (1), it shall be subject to the conditions set out in paragraph (4).

(4) The conditions referred to in paragraph (3) are that:

(a) a payment in lieu of annual leave shall not relate to any day of annual leave in excess of the maximum number as specified in Table H;

(b) at the time of the agreement the employer shall promptly make a written record in respect of each day for which a payment in lieu is to be made and such a record is to be retained by the employer for a period of three years from the expiry of the annual leave year to which the agreement relates;

(c) where (for whatever reason) the worker does not work as agreed on a day for which a payment in lieu of annual leave is to be made, that day shall remain due as part of the worker's accrued entitlement to annual leave under this Order; and

(d) a worker to whom a payment in lieu of a day of annual leave is made under this paragraph is entitled to receive payment for that day comprising both:

(i) payment of wages at the minimum overtime rate applicable under this Order to their grade or category for work carried out by the worker on that day; and

(ii) holiday pay calculated in accordance with article 49 and for the purposes of any calculation required in accordance with article 49(5) as if the day for which a payment in lieu of annual leave is made was a day when the worker was taking annual leave.

## **52. Payment of holiday pay on termination of employment**

(1) Where a worker's employment is terminated and the worker has not taken all of the annual leave entitlement which has accrued to them under this Order at the date of termination, the worker shall be entitled in accordance with paragraph (2) to be paid in lieu of that accrued but untaken annual leave.

(2) The amount of payment to be made to the worker in lieu of each day of their accrued but untaken holiday as at the date of termination shall be calculated in accordance with article 49 and for the purpose of any calculation required in accordance with article 49(5), as if the date of termination was the first day of a period of the worker's annual leave.

## **53. Recovery of holiday pay**

(1) If a worker's employment terminates before the end of the leave year and the worker has taken more annual leave than that to which the worker was entitled (whether under this Order or otherwise), their employer is entitled to recover the amount of holiday pay which has been paid to the worker in respect of annual leave taken in excess of that entitlement.

(2) Where under paragraph (1) an employer is entitled to recover holiday pay from a worker, the employer may do so by means of a deduction from the final payment of wages to the worker.

#### **54. Bereavement leave**

(1) Subject to the provisions of this article and articles 55 to 58, a worker is entitled to paid bereavement leave.

(2) The amount of bereavement leave to which a worker is entitled is to be determined in accordance with whether the worker's bereavement relates to a person in Category A or to a person in Category B, each as specified in article 55.

(3) A worker's entitlement to pay in respect of bereavement leave under this Order shall be calculated in accordance with article 58.

(4) Where a worker has more than one employment (whether with the same employer or different employers), the worker shall be entitled to take paid bereavement leave under this article in respect of more than one employment, but any such leave shall not in aggregate exceed in respect of any one occasion of bereavement, the maximum amount of bereavement leave specified for a single employment under articles 56 and 57.

(5) Bereavement leave under this Order is in addition to any other leave entitlements which a worker has under this Order.

#### **55. Bereavement leave categories**

(1) The following persons fall within bereavement leave Category A:

- (a) a parent of the worker;
- (b) a son or daughter of the worker;
- (c) the worker's spouse or civil partner; or
- (d) someone with whom the worker lives as husband and wife without being legally married or someone with whom the worker lives as if they were in a civil partnership.

(2) The following persons fall within bereavement leave Category B:

- (a) a brother or sister of the worker;
- (b) a grandparent of the worker; or
- (c) a grandchild of the worker.

#### **56. Amount of bereavement leave for deaths of persons within Category A**

(1) A worker shall be entitled to the amount of bereavement leave calculated in accordance with this article after the death of any of the persons within Category A occurring during the worker's employment.

(2) The amount of bereavement leave to which a worker is entitled under paragraph (1) is:

(a) four days where the worker works their basic hours on five days or more each week for the same employer; or

(b) where the worker works their basic hours on four days a week or less for the same employer, the number of days calculated in accordance with paragraph (3).

(3) Where this paragraph applies, subject to paragraph (4) the amount of a worker's entitlement to bereavement leave shall be calculated according to the following formula:

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

where -

DWEW is the number of days worked each week by the worker calculated in accordance with article 46.

(4) Where the calculation in paragraph (3) results in an entitlement to bereavement leave of less than one day, the worker's entitlement shall be to one day of bereavement leave, but otherwise there shall be no variation to the amount of bereavement entitlement even if the resulting figure includes a fraction of a day.

#### **57. Amount of bereavement leave for deaths of persons within Category B**

(1) A worker shall be entitled to the amount of bereavement leave calculated in accordance with this article after the death of any of the persons within Category B occurring during the worker's employment.

(2) The amount of bereavement leave to which a worker is entitled under paragraph (1) is:

(a) two days where the worker works their basic hours on five days or more each week for the same employer; or

(b) where the worker works their basic hours on four days a week or less for the same employer, the number of days calculated in accordance with paragraph (3).

(3) Where this article applies the amount of a worker's entitlement to bereavement leave shall be calculated according to the following formula:

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

where -

DWEW is the number of days worked each week by the worker calculated in accordance with article 46.

(4) Where the calculation in paragraph (3) results in an entitlement to bereavement leave of less than one day, the worker's entitlement shall be to one day of bereavement

leave, but otherwise there shall be no variation to the amount of bereavement entitlement even if the resulting figure includes a fraction of a day.

#### **58. Amount of pay for bereavement leave**

The amount of pay for each day of bereavement leave shall be calculated in accordance with article 49 and for the purpose of any calculation required in accordance with article 49(5), as if the first day of the worker's bereavement leave was the first day of a period of the worker's annual leave.

#### **59. Unpaid leave**

A worker may with their employer's consent take a period of unpaid leave.

## **Part 11: Agricultural sick pay**

#### **60. Entitlement to agricultural sick pay**

Subject to the provisions of this Part, a worker shall be entitled to receive wages (referred to in this Order as agricultural sick pay) in respect of their sickness absence from work.

#### **61. Qualifying conditions for agricultural sick pay**

A worker shall qualify for agricultural sick pay under this Order provided that the worker:

- (a) has been continuously employed by their employer for the period of 52 weeks immediately preceding the start of the worker's period of sickness absence;
- (b) has informed their employer of the sickness absence in a way previously agreed with their employer (or in the absence of any such agreement by any reasonable means); and
- (c) if the worker's sickness absence has continued for eight days or more, the worker has provided their employer with a certificate from a registered medical practitioner which discloses the diagnosis of the worker's medical disorder and states that such disorder has caused the worker's sickness absence.

#### **62. Limit of entitlement within agricultural sick pay period**

(1) The maximum entitlement of a worker to agricultural sick pay under this Order shall be calculated in accordance with the provisions of this article.

(2) The maximum number of days of agricultural sick pay to which a worker is entitled shall be determined for each agricultural sick pay period in accordance with Table I and paragraphs (3) to (7).

(3) Subject to paragraph (4) each agricultural sick pay period for a worker starts on the first day in respect of which agricultural sick pay is payable to the worker under this Order and ends 12 months later.

(4) If the worker has a period of sickness absence which commences at any time within the agricultural sick pay period mentioned in paragraph (3) but which continues beyond the end of that agricultural sick pay period, the agricultural sick pay period concerned shall be extended so as to end on whichever is the earlier of:

(a) the date when that worker's sickness absence ends and the worker returns to work; and

(b) the date when that worker has used their maximum entitlement to agricultural sick pay applicable to the 12-month period referred to in paragraph (3) (had it not been extended).

(5) A worker's maximum entitlement to agricultural sick pay applies regardless of the number of occasions of sickness absence within any agricultural sick pay period.

(6) Where a worker works their basic hours (and where applicable any guaranteed overtime) on a fixed number of days each week, the maximum number of days for which the worker is entitled to receive agricultural sick pay in any agricultural sick pay period is calculated by multiplying the appropriate number of weeks in Table I by the number of days worked each week calculated in accordance with article 46.

(7) Where a worker works their basic hours (and where applicable any guaranteed overtime) on a varying number of days each week, the maximum number of days for which the worker is entitled to receive agricultural sick pay in any agricultural sick pay period is calculated by multiplying the appropriate number of weeks in Table I by the number of days worked each week calculated in accordance with paragraph (8).

(8) Where this paragraph applies the number of days worked each week is calculated by:

(a) calculating the number of qualifying days for the worker within the period of 52 weeks immediately preceding the commencement of the worker's agricultural sick pay period; and

(b) then dividing by 52 the number of those qualifying days.

(9) For the purpose of this article, qualifying days are:

(a) any days on which the worker works basic hours or guaranteed overtime for their employer; and

(b) any day when the worker would otherwise normally be working for their employer but for the fact that the worker was:

(i) on annual leave (whether contractual or under this Order);

(ii) taking other leave permitted under this Order;

(iii) taking any form of statutory entitlement to adoption leave, maternity leave or paternity leave; or

(iv) on sick leave (whether or not such leave is paid).

**Table I**

Number of months the worker has been continuously employed when the current agricultural sick pay period commenced	Number of weeks agricultural sick pay the worker is permitted in the agricultural sick pay period
Under 12	0
at least 12 but not 24	13
at least 24 but not 36	16
at least 36 but not 48	19
at least 48 but not 59	22
59 or more	26

**63. Days of sickness absence for which agricultural sick pay payable**

(1) Subject to the provisions of article 62 and paragraph (2), agricultural sick pay is payable for any day of sickness absence occurring on any of the worker's normal working days.

(2) Where a worker has separate periods of sickness absence, such periods are to be treated as a single period of sickness absence where the break between each period of sickness absence is less than 14 days.

(3) For any period of a worker's sickness absence which lasts for less than 14 days, no agricultural sick pay is payable under this Order for the first three days of that worker's sickness absence.

**64. Amount of agricultural sick pay**

(1) In this article "the period" means the period of eight weeks immediately preceding the commencement of the worker's sickness absence to which the payment of agricultural sick pay relates.

(2) Where agricultural sick pay is payable under this Order, the amount due to a worker for each day of sickness absence is equivalent to the worker's minimum basic pay under Part 4 of this Order for their daily contractual working hours, as determined in accordance with paragraph (3), or as the case may be, paragraphs (4) to (7).

(3) If during the period, the worker had the same number of qualifying hours (as specified under paragraph (6)) each week, the worker's daily contractual working hours are determined by dividing the total of their qualifying hours in any week in the period by the number of days in that week in which those qualifying hours fell.

(4) If during the period the worker did not have a fixed number of qualifying hours (as specified under paragraph (6)) each week, their daily contractual working hours are to be calculated according to the following formula:

$$\frac{QH \div 8}{DWEW}$$

where -

QH is the total number of qualifying hours in the period; and

DWEW is the number of days worked each week by the worker determined in accordance with paragraph (5).

(5) For the purposes of paragraph (4), the number of days worked each week by the worker shall be ascertained by adding the total number of qualifying days for the worker in the period and then dividing that number by eight.

(6) For the purposes of this article:

(a) qualifying hours are those hours in the period when:

(i) the worker worked basic hours or guaranteed overtime for their employer;

(ii) the worker took annual leave (whether under this Order or otherwise);

(iii) the worker took bereavement leave under this Order;

(iv) the worker had sickness absence qualifying for agricultural sick pay under this Order; or

(v) the worker had sickness absence not qualifying for agricultural sick pay under this Order; and

(b) qualifying days are any days within the period on which there were qualifying hours relating to the worker.

(7) For the purposes of calculations under this article, where a worker has been employed by their employer for less than eight weeks, account shall be taken only of qualifying hours and qualifying days in the actual number of weeks of the worker's employment with their employer.

### **65. Agricultural sick pay to take account of statutory sick pay**

Any payment of statutory sick pay made to a worker by or under the provisions of Part XI of the Social Security Contributions and Benefits Act 1992 in respect of a period of that worker's sickness absence shall go towards discharging any liability of their employer to make payments of agricultural sick pay under this Order.

## **66. Payment intervals for agricultural sick pay**

(1) An employer shall pay the worker's entitlement to agricultural sick pay due under this Order (insofar as that entitlement can be ascertained) on the worker's normal pay day.

(2) If any amount of agricultural sick pay (previously unascertained by the employer) is due to the worker in addition to the payments that have already been made to that worker, the employer shall make a final payment of agricultural sick pay for the worker's latest period of sickness absence on the next normal pay day after the week in which the worker returns to work.

## **67. Contract ending during sickness absence**

(1) Subject to paragraph (2), if during a period of a worker's sickness absence, their contract of employment is terminated or the worker is given notice that their contract of employment is to be terminated, any entitlement which the worker has to agricultural sick pay continues after that contract ends as if the worker was still employed by their employer, until one of the following occurs:

- (a) the worker's sickness absence ends;
- (b) the worker starts work for another employer; or
- (c) the outstanding balance of the worker's entitlement to agricultural sick pay as shown in Table I is exhausted in respect of the agricultural sick pay period applicable at the time when the worker's contract of employment is terminated.

(2) A worker whose contract has been terminated is not entitled to any agricultural sick pay after the end of their employment in accordance with paragraph (1) if the worker was given notice before the beginning of a period of sickness absence that their employer intends to terminate the worker's contract of employment.

## **68. Overpayments of agricultural sick pay**

(1) Subject to the provisions of paragraph (2), if a worker who is entitled to agricultural sick pay under this Part is paid more agricultural sick pay than their entitlement, their employer can recover the overpayment of such agricultural sick pay by deduction from the worker's wages.

(2) If an overpayment of agricultural sick pay under this Order is deducted as mentioned in paragraph (1), the employer shall not deduct more than 20% of the worker's gross wage, provided that if notice has been given (either by the employer or by the worker) to terminate the worker's contract of employment or if the worker's contract has already been terminated, more than 20% of the worker's gross wage may be deducted by the employer from payment of the worker's final wages.

## **69. Damages recovered for loss of earnings**

(1) This article applies to a worker whose entitlement to agricultural sick pay arises because of the actions or omissions of a person other than their employer and damages are recovered by the worker in respect of loss of earnings suffered during the period in respect of which the worker received agricultural sick pay from their employer.

(2) Where paragraph (1) applies:

- (a) the worker shall immediately notify their employer of all the relevant circumstances and of any claim and of any damages recovered under any compromise, settlement or judgment;
- (b) all agricultural sick pay paid by the employer to that worker in respect of the sickness absence for which damages for loss of earnings are recovered shall constitute a loan to the worker; and
- (c) the worker shall refund to their employer a sum not exceeding the lesser of:
  - (i) the amount of damages recovered for loss of earnings in the period for which agricultural sick pay was paid; and
  - (ii) the sums advanced to him from their employer under this Part by way of agricultural sick pay.

## **Part 12: Revocations and savings**

### **70. Revocation of previous Agricultural Wages Orders**

(1) Subject to paragraph (2), every previous Order made by the Board is hereby revoked.

(2) The revocation of any previous Order as specified in paragraph (1) shall not affect:

(a) any right or liability accrued or incurred under the provisions of any such Order; or

(b) the validity of anything done under the provisions of any such Order;

and the provisions of any such previous Order shall be treated as remaining in force for the purposes of continuing the validity of anything done (or having effect as if done) under such an Order and for the purposes of enforcing any such accrued right or determining any liability as mentioned in this paragraph.

20 July 2012  
Dermot McInerney  
Secretary

## Schedules

### Schedule 1 – Standard worker vocational qualifications

AWARDING BODY	QUALIFICATION TITLE	ALTERNATIVE QUALIFICATION TITLE	FROM
NPTC	Certificate in Horticulture Skills (previously titled City and Guilds Horticultural Skills Tests)	Level 1 Certificate in Practical Horticulture Skills or Level 1 Diploma in Practical Horticulture Skills	01/05/2009  01/05/2009
NPTC/City and Guilds	Certificate in Land-based Studies	Level 1 Diploma in Land based Studies or Level 1 Certificate in land based studies	01/09/2009  01/09/2009
NPTC/City and Guilds	S/NVQ Level 2 Agricultural Crop Production	Level 2 Diploma in Work Based Agriculture or SVQ Level 2 in Agriculture	01/09/2009  01/01/2010
NPTC/City and Guilds	S/NVQ Level 2 Livestock Production	Level 2 Diploma in Work Based Agriculture or SVQ Level 2 Agriculture	01/09/2009  01/01/2010
NPTC/City and Guilds	S/NVQ Level 2 Livestock Production (Beef)	Level 2 Diploma in Work Based Agriculture or SVQ Level 2 Agriculture	01/09/2009  01/01/2010
NPTC/City and Guilds	S/NVQ Level 2 Livestock Production (Dairy)	Level 2 Diploma in Work Based Agriculture or SVQ Level 2 Agriculture	01/09/2009  01/01/2010

NPTC/City and Guilds	S/NVQ Level 2 Livestock Production (Pigs)	Level 2 Diploma in Work Based Agriculture or SVQ Level 2 Agriculture	01/09/2009  01/01/2010
NPTC/City and Guilds	S/NVQ Level 2 Livestock Production (Poultry)	Level 2 Diploma in Work Based Agriculture or SVQ Level 2 Agriculture	01/09/2009  01/01/2010
NPTC/City and Guilds	S/NVQ Level 2 Livestock Production (Sheep)	Level 2 Diploma in Work Based Agriculture or SVQ Level 2 Agriculture	01/09/2009  01/01/2010
NPTC/City and Guilds	S/NVQ Level 2 Mixed Farming	Level 2 Diploma in Work Based Agriculture or SVQ Level 2 Agriculture	01/09/2009  01/01/2010
NPTC/City and Guilds	S/NVQ Level 2 Production Horticulture	Level 2 Diploma in Work Based Horticulture or SVQ Level 2 Horticulture	01/09/2009  01/10/2009
NPTC/City and Guilds	S/NVQ Level 2 Forestry (Establishment)	Level 2 Diploma in Work based Treework or SVQ 2 in Treework	01/09/2010  01/01/2011
NPTC/City and Guilds	S/NVQ Level 2 Forestry (Harvesting)	Level 2 Diploma in Work based Treework or SVQ 2 in Treework	01/09/2010  01/01/2011
NPTC/City and Guilds	S/NVQ Level 2 Arboriculture	Level 2 Diploma in Work based Treework or SVQ 2 in Treework	01/09/2010  01/01/2011
NPTC/City & Guilds	Advanced National Certificate in Agriculture	Level 3 Subsidiary Diploma in Agriculture or	01/09/2010

		Level 3 Certificate in Agriculture	01/09/2010
NPTC/City & Guilds	National Certificate in Agriculture	Level 2 Extended Certificate in Agriculture or Level 2 Certificate in Agriculture	01/09/2010  01/09/2010
Edexcel	BTEC National Award in Agriculture	Level 3 BTEC Subsidiary Diploma in Agriculture or Level 3 BTEC Certificate in Agriculture	01/09/2010  01/09/2010
Edexcel	BTEC First Certificate in Agriculture	Level 2 BTEC Extended Certificate in Agriculture or Level 2 BTEC Certificate in Agriculture	01/09/2010  01/09/2010
NPTC/City & Guilds	Advanced National Certificate in Horticulture	Level 3 Subsidiary Diploma in Horticulture or Level 3 Certificate in Horticulture	01/09/2010  01/09/2010
NPTC/City & Guilds	National Certificate in Horticulture	Level 2 Extended Certificate in Horticulture or Level 2 Certificate in Horticulture	01/09/2010  01/09/2010
Edexcel	BTEC National Award in Horticulture	Level 3 BTEC Subsidiary Diploma in Horticulture or Level 3 BTEC Certificate in Horticulture	01/09/2010  01/09/2010
Edexcel	BTEC First Certificate in Horticulture	Level 2 BTEC Extended Certificate in Horticulture or Level 2 BTEC Certificate in Horticulture	01/09/2010  01/09/2010
	Apprenticeship in Agricultural Crops and Livestock	Apprenticeship in Agriculture	01/09/2009

	(previously titled Foundation Modern Apprenticeship)		01/09/2009
	Apprenticeship in Production Horticulture (previously titled Foundation Modern Apprenticeship)	Apprenticeship in Horticulture	01/09/2009
	Apprenticeship in Trees & Timber (previously titled Foundation Modern Apprenticeship)	Apprenticeship in Trees and Timber	01/09/2010

**NOTE: Employers are reminded to check the actual units taken on all certificates presented to ensure that skills have been achieved appropriate to the specific industry sector the employment relates to.**

## Schedule 2A - Grade 2/3/4 certificates (Certificates of Competence/QCF Awards and Certificates)

Note: (M= mandatory; O = optional)

### Relevant Agricultural Sector

NPTC Certificates of Competence (CoC)/QCF Award or QCF Certificate	Beef			Milk			Sheep			Pigs			Machinery			Product Hortic.			Forestry		
	Grade			Grade			Grade			Grade			Grade			Grade					
	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4
Number of CoCs or QCF awards/certificates required for each Grade	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8
Tractor Driving & Related Operations or Level 2 Award in Tractor driving and related operations (QCF)	✓	O	O	✓	O	O	✓	O	O	✓	O	O	✓	M	M	✓	O	O	✓	O	O
Fork Lift Truck Operations ** NPTC CoC or certificate of training (see below)	✓	O	O	✓	O	O	✓	O	O	✓	O	O	✓	O	M	✓	O	O	✓	O	O
Safe Operation of ATVs or Level 2 Award in All Terrain Vehicle Handling (QCF)	✓	O	O	✓	O	O	✓	O	O	✓	O	O	✓	O	O	✓	O	O	✓	O	O

NPTC Certificates of Competence (CoC)/QCF Award or QCF Certificate	Beef			Milk			Sheep			Pigs			Machinery			Product Hortic.			Forestry		
	Grade			Grade			Grade			Grade			Grade			Grade					
	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4
Number of CoCs or QCF awards/certificates required for each Grade (Continued.../)	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8
Machine Maintenance & Related Operations or Level 2 Award in Agriculture Machine Maintenance (QCF)	✓	0	0	✓	0	0	✓	0	0	✓	0	0	✓	0	0	✓	0	0	✓	0	0
Vertebrate Pest Control	✓	0	0	✓	0	0	✓	0	0	✓	0	0	✓	0	0	✓	0	0	✓	0	0
Granular Fertiliser Application	✓	0	0	✓	0	0	✓	0	0				✓	0	0	✓	0	0	✓	0	0
Safe Use of Pesticides (PA1 + 1 <sup>st</sup> application unit) or Level 2 Award in Safe Use of Pesticides (QCF)													✓	0	0	✓	0	0	✓	0	0
Safe Use of Pesticides (PA1 + 2 <sup>nd</sup> application unit)													✓	0	0	✓	0	0	✓	0	0

or																		
Level 2 Award in Safe Use of Pesticides (QCF)																		

NPTC Certificates of Competence (CoC)/QCF Award or QCF Certificate	Beef			Milk			Sheep			Pigs			Machinery			Product Hortic.			Forestry		
	Grade			Grade			Grade			Grade			Grade			Grade					
	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4
<b>Number of CoCs or QCF awards/certificates required for each Grade (Continued.../)</b>	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8
Safe Use of Mowers or Level 2 Award in the Safe Use of Pedestrian Controlled Mowers (QCF) or Level 2 Award in the Safe Use of Tractor Mounted Mowers (QCF) or Award in the Safe Use of Ride-on Self Propelled Mowers (QCF)													✓	○	○	✓	○	○			
Safe Use of Hedge Trimmers													✓	○	○	✓	○	○	✓	○	○
Safe Use of Pedestrian Controlled Two-wheel Tractors																✓	○	○			

Safe Use of Abrasive Wheel Machines													✓	○	○						
Safe Use of Plant Machinery													✓	○	○	✓	○	○			
Safe Operation of Dumper Trucks													✓	○	○	✓	○	○			
<b>NPTC Certificates of Competence (CoC)/QCF Award or QCF Certificate</b>	<b>Beef</b>			<b>Milk</b>			<b>Sheep</b>			<b>Pigs</b>			<b>Machinery</b>			<b>Product Hortic.</b>			<b>Forestry</b>		
<b>Grade</b>	Grade			Grade			Grade			Grade			Grade			Grade					
	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4
<b>Number of CoCs or QCF awards/certificates required for each Grade (Continued.../)</b>	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8
Pig Husbandry/Pig Husbandry Skills or Level 2 Certificate in Pig Husbandry Skills – Weaner, Grower and Finishing (QCF) or Level 2 Certificate in Pig Husbandry skills – breeding herd operations (QCF) or Level 2 certificate in Pig Husbandry Skills (QCF)										✓	○	M									
Pig Unit Supervision or Level 3 Certificate in Pig Unit Supervision and Operation (QCF)										✓	○	○									
Livestock Husbandry	✓	○	M	✓	○	○	✓	○	M												

Transport of Animals by Road	✓	○	○	✓	○	○	✓	○	○	✓	○	○									
Safe Use of Sheep Dips or Level 2 Award in the Safe use of Sheep Dips (QCF)							✓	○	○												

NPTC Certificates of Competence (CoC)/ QCF Award or QCF Certificates (Continued.../)	Beef			Milk			Sheep			Pigs			Machinery			Product Hortic.			Forestry					
	Grade			Grade			Grade			Grade			Grade			Grade								
	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4			
<b>Number of CoCs or QCF awards/certificates required for each Grade</b>	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8
Safe Use of Veterinary Medicines or Level 2 Award in the Safe use of Veterinary Medicines (QCF)	✓	○	○	✓	○	○	✓	○	○	✓	○	○												
Planning and Supervising the Safe Use of Veterinary Medicines or Level 3 Award in the Planning and Supervising the Safe Use of Veterinary Medicines (QCF)	✓	○	○	✓	○	○	✓	○	○	✓	○	○												
Artificial Insemination (Cattle)	✓	○	○	✓	○	○																		
Sheep Shearing (BWMB Blue seal)							✓	○	○															

Sheep Shearing (BWMB Bronze seal)							✓	O	O									
Basic Stockmanship & Welfare or Level 2 Award in Basic Stockmanship and Welfare (QCF)	✓	M	M	✓	M	M	✓	M	M	✓	M	M						

NPTC Certificates of Competence (CoC)/ QCF Award or QCF Certificates (Continued.../)	Beef			Milk			Sheep			Pigs			Machinery			Product Hortic.			Forestry					
	Grade			Grade			Grade			Grade			Grade			Grade								
	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4			
<b>Number of CoCs or QCF awards/certificates required for each Grade</b>	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8
Milking & Dairy Hygiene				✓	O	M																		
Chainsaw & Related Operations (Maintenance & Fell Small Trees CS30 + 31) or Level 2 Award in Chainsaw and Related Operations (QCF)																						✓	O	O
Chainsaw & Related Operations (Fell Medium Trees CS32) or Level 2 Award in Chainsaw and Related Operations plus unit CS32)																						✓	O	O

Chainsaw & Related Operations (Fell Large Trees CS49) or Level 2 Award in Chainsaw and Related Operations plus unit CS32)																✓	○	○
Stump Grinding Operations																✓	○	○
Brush Cutting Operations													✓	○	○	✓	○	○
Brushwood Chipper Operations																✓	○	○
Forest Machine Operations (Harvesting)																✓	○	○

NPTC Certificates of Competence (CoC)/ QCF Award or QCF Certificates (Continued.../)	Beef			Milk			Sheep			Pigs			Machinery			Product Hortic.			Forestry					
	Grade			Grade			Grade			Grade			Grade			Grade								
	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4	2	3	4			
<b>Number of CoCs or QCF awards/certificates required for each Grade</b>	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8	1	4	8
Forest Machine Operations (Forwarding)																						✓	○	○
Forest Machine Operations (Skidding)																						✓	○	○
Forest Machine Operations (Establishment)																						✓	○	○

Certificate in Working Safely in Agriculture/Horticulture (NPTC or Lantra Awards) or Level 2 Award in Safe Working in Agriculture and Production Horticulture (QCF) (NPTC or Lantra Awards)	✓	○	○	✓	○	○	✓	○	○	✓	○	○	✓	○	○	✓	○	○			
Certificate in Controlling Risks to Health and Safety in Agriculture/Horticulture (NPTC or Lantra Awards) or Level 3 Award in controlling risks to health and safety in Agriculture and Production Horticulture (QCF) (NPTC or Lantra Awards)	✓	○	○	✓	○	○	✓	○	○	✓	○	○	✓	○	○	✓	○	○			
Certificate in Managing People's Health and Safety in Agriculture/Horticulture (NPTC or Lantra Awards)	✓	○	○	✓	○	○	✓	○	○	✓	○	○	✓	○	○	✓	○	○			
<b>Other Accredited learning</b>  (Quality assured by a nationally recognised certifying body)	<b>Beef</b>			<b>Milk</b>			<b>Sheep</b>			<b>Pigs</b>			<b>Machinery</b>			<b>Product Hortic.</b>			<b>Forestry</b>		
First Aid at Work (3/4 days course)	✓	○	○	✓	○	○	✓	○	○	✓	○	○	✓	○	○	✓	○	○	✓	○	○

\*\* Fork Lift Truck Operations: Accepted evidence would be either the NPTC Certificate of Competence in Fork Lift Truck Operations, or a certificate of training from one of the accrediting bodies recognised in the Approved Code of Practice for Rider Operated Lift Trucks

## Schedule 2B - Non-accredited competences for entry to grades 2-4

Competence (NOS)	Title
CU 5.2. (T5021690)	Establishing and maintaining effective working relationship with others (Level 2)
CU 9.2. (J5021449)	Plan and maintain supplies of physical resources within the work area (Level 3)

Note: CU 5.2 and CU 9.2 are derived from the current versions of Lantra's National Occupational Standards and may be used by the Team Leader to qualify for entry to Grade 3 by means of employer verification. Such competences may be used to count towards entry to Grades 2-4.

### Schedule 3 - Lead worker vocational qualifications

<b>AWARDING BODY</b>	<b>QUALIFICATION TITLE</b>	<b>ALTERNATIVE QUALIFICATION TITLE</b>	<b>FROM</b>
NPTC/City & Guilds	National Certificate in Agriculture	Level 2 Diploma in Agriculture	01/09/2010
NPTC/City & Guilds	National Certificate in Horticulture	Level 2 Diploma in Horticulture	01/09/2010
Edexcel	BTEC First Diploma in Agriculture	Level 2 BTEC Diploma in Agriculture	01/09/2010
Edexcel	BTEC First Diploma in Horticulture	Level 2 BTEC Diploma in Horticulture	01/09/2010

## Schedule 4 - Craft grade vocational qualifications

AWARDING BODY	QUALIFICATION TITLE	ALTERNATIVE QUALIFICATION TITLE	FROM
NPTC/City & Guilds	S/NVQ Level 3 Agricultural Crop Production	Level 3 Diploma in Work Based Agriculture	01/09/2009
		or SVQ Level 3 Agriculture	01/01/2010
NPTC/City & Guilds	S/NVQ Level 3 Livestock Production	Level 3 Diploma in Work Based Agriculture	01/09/2009
		or SVQ Level 3 Agriculture	01/01/2010
NPTC/City & Guilds	S/NVQ Level 3 Livestock Production ( Beef)	Level 3 Diploma in Work Based Agriculture	01/09/2009
		or SVQ Level 3 Agriculture	01/01/2010
NPTC/City & Guilds	S/NVQ Level 3 Livestock Production (Dairy)	Level 3 Diploma in Work Based Agriculture	01/09/2009
		or SVQ Level 3 Agriculture	01/01/2010

NPTC/City & Guilds	S/NVQ Level 3 Livestock Production (Pigs)	Level 3 Diploma in Work Based Agriculture or SVQ Level 3 Agriculture	01/09/2009  01/01/2010
NPTC/City & Guilds	S/NVQ Level 3 Livestock Production (Poultry)	Level 3 Diploma in Work Based Agriculture or SVQ Level 3 Agriculture	01/09/2009  01/01/2010
NPTC/City & Guilds	S/NVQ Level 3 Livestock Production (Sheep)	Level 3 Diploma in Work Based Agriculture or SVQ Level 3 Agriculture	01/09/2009  01/01/2010
NPTC/City & Guilds	S/NVQ Level 3 Mixed Farming	Level 3 Diploma in Work Based Agriculture or SVQ Level 3 Agriculture	01/09/2009  01/01/2010
NPTC/City & Guilds	Advanced National Certificate in Agriculture	Level 3 Diploma in Agriculture or Level 3 Extended Diploma in Agriculture	01/09/2010  01/09/2010
Edexcel	BTEC National Certificate in Agriculture	Level 3 BTEC Diploma in Agriculture	01/09/2010

Edexcel	BTEC National Diploma in Agriculture	Level 3 BTEC Extended Diploma in Agriculture	01/09/2010
NPTC/City & Guilds	S/NVQ Level 3 Production Horticulture	Level 3 Diploma in Work Based Horticulture or SVQ Level 3 Horticulture	01/09/2009  01/10/2010
Edexcel	BTEC National Certificate in Horticulture	Level 3 BTEC Diploma in Horticulture	01/09/2010
Edexcel	BTEC National Diploma in Horticulture	Level 3 BTEC Extended Diploma in Horticulture	01/09/2010
NPTC/City & Guilds	Advanced National Certificate in Horticulture	Level 3 Diploma in Horticulture or Level 3 Extended Diploma in Horticulture	01/09/2010  01/09/2010
NPTC/City & Guilds	S/NVQ Level 3 Treework (Forestry Establishment)	Level 3 Diploma in Work based Treework or SVQ Level 3 in Treework	01/09/2010  01/01/2011
NPTC/City & Guilds	S/NVQ Level 3 Treework (Forestry Harvesting)	Level 3 Diploma in Work based Treework or SVQ Level 3 in Treework	01/09/2010  01/01/2011
NPTC/City & Guilds	S/NVQ Level 3 Treework (Arboriculture)	Level 3 Diploma in Work based Treework	01/09/2010

		or	
		SVQ Level 3 in Treework	01/01/2011
Edexcel	BTEC National Diploma in Forestry and Arboriculture	Level 3 BTEC Extended Diploma in Forestry and Arboriculture	01/09/2010
Edexcel	BTEC National Certificate in Forestry and Arboriculture	Level 3 BTEC Diploma in Forestry and Arboriculture	01/09/2010
Edexcel	BTEC Higher National Certificate/Diploma in Agriculture		
Edexcel	BTEC Higher National Certificate/Diploma in Horticulture		
Edexcel	BTEC Higher National Certificate/Diploma in Countryside Management		
	Advanced Apprenticeship in Agricultural Crops and Livestock (previously titled Advanced Modern Apprenticeship)	Advanced Apprenticeship in Agriculture	01/09/2009
	Advanced Apprenticeship in Production Horticulture (previously titled Advanced Modern Apprenticeship)	Advanced Apprenticeship in Horticulture	01/09/2009

## Schedule 5 - Craft grade category based tests

### Category based proficiency tests leading to craft rates of pay - Agriculture

Craft	Activity		Number of Activities to be Achieved (c)	
	Category Based Activity (a)	Category Based Activities replaced by Certificates of Competence (b)		
<b>AGRICULTURAL TESTS</b>				
Beef Cattle Production	BF 6.	BF (1), (2), (3), 5, (10), 11, (12), 13.	Basic Stockmanship and Welfare (Cattle) Safe Use of Veterinary Medicines (Cattle) Livestock Husbandry (Cattle) Machine Maintenance and Related Operations Tractor Driving and Related Operations (Units 1, 2 & 3) Tractor Driving and Related Operations (Unit 4) Operation of ATVs Transport of Livestock by Road for Drivers and Attendants (Cattle)	6
Milk Production	ML 6.	ML (1), (2), (3), (4), 5, (10), 11, 13.	Basic Stockmanship and Welfare (Cattle) Safe Use of Veterinary Medicines (Cattle) Livestock Husbandry (Cattle) Milking and Dairy Hygiene Machine Maintenance and Related Operations Tractor Driving and Related Operations (Units 1, 2 & 3) Tractor Driving and Related Operations (Unit 4) Transport of Livestock by Road for Drivers and Attendants (Cattle)	6
Sheep Production	SP 6, 8.	SP (1), (2), (3), 5, 7, 9, (10), 11, (12), 13.	Basic Stockmanship and Welfare (Sheep) Safe Use of Veterinary Medicines (Sheep) Livestock Husbandry (Sheep) Machine Maintenance and Related Operations Sheep Shearing (BWMB Blue Seal) Safe Use of Sheep Dips Tractor Driving and Related Operations (Units 1, 2 & 3) Tractor Driving and Related Operations (Unit 4) Operation of ATVs Transport of Livestock by Road for Drivers and Attendants (Sheep)	6
Pig Production	PG 6, 7.	PG (1), (2), (3), 5, (10), 11, 13.	Basic Stockmanship and Welfare (Pigs) Safe Use of Veterinary Medicines (Pigs) Pig Husbandry Machine Maintenance and Related Operations Tractor Driving and Related Operations (Units 1, 2 & 3) Tractor Driving and Related Operations (Unit 4) Transport of Livestock by Road for Drivers and Attendants (Pigs)	5
Machinery Operation	MO 3, 4, 9, 11, 12, 13, (5, exc.	MO (1), (1A), (2), 5 [Fert	Tractor Driving & Related Operations (Units 1, 2 & 3) Tractor Driving & Related Operations (Unit 4) Machine Maintenance & Related Operations	6

	Fert. Spread), (7, exc. Mowers).	Spread], 6, 7 [Mowers], 8, 10, 14, 15.	Granular Fertiliser Application Safe Use of Pesticides Safe Use of Mowers Fork Lift Truck Operations Safe Use of Hedge Trimmers Chain Saw and Related Operations (CS30 and CS31) Operation of ATVs Safe Use of Mowers	
Poultry Production (In Rearing, Breeding, Commercial Egg Production or Hatchery Practice)	PP 1, 2, 3, 4, 5, 6, 7, 8, 9, 10. [See NPTC Schedule for Compulsory Activities by Category.]	PP 13.	Transport of Livestock by Road for Drivers and Attendants (Poultry)	5

Notes:

(a) Will not attract Government funding

(b) Accredited for Government funding purposes (Equivalence Table can be obtained from NPTC)

(c) Can include activities from the Accredited Certificate of Competence and Category Based Activity lists, but must include all compulsory activities (code numbers in brackets)

### Category based proficiency tests leading to craft rates of pay - Horticulture

Craft	Activity		Number of Activities to be Achieved (c)	
	Category Based Activity (a)	Category Based Activities replaced by Certificates of Competence (b)		
<b>HORTICULTURAL TESTS</b>				
Bulb and Corm Production	BC (1 <i>part</i> 1), 2, 3, 4, 6.	BC (1 <i>part</i> 2), 5, 7, 8, 9.	Safe Use of Pesticides Safe Use of Pesticides Pedestrian Controlled Tractors Tractor Driving and Related Operations (Units 1, 2, & 3) Fork Lift Truck Operations	5
Soft Fruit Production	SF 1, 2, 3, 4, (5), (6 <i>parts</i> 1 & 3), 7, 8, 11, 12, 13.	SF (6 <i>part</i> 2), 9, 10, 14, 15.	Safe Use of Pesticides Safe Use of Pedestrian Controlled Two-Wheel Tractors Tractor Driving and Related Operations (Units 1, 2, & 3) Fork Lift Truck Operations Granular Fertiliser Application	6
Tree Fruit Production	TF (1), 2, (3), (4), 5, (6), (7), 11, 12, 13.	TF (7 <i>part</i> 2), 8, (9), (10), (10), (13).	Safe Use of Pesticides Tractor Driving and Related Operations (Units 1, 2, & 3) Fork Lift Truck Operations Granular Fertiliser Application Safe Use of Mowers Safe Use of Pesticides	6
Glasshouse Crops Production	GH (1), (2), (3), (4), (5), 6, 7, 8 <i>parts</i> 1 & 3, 9, 10.	GH 8 <i>part</i> 2, 11, 12, 13.	Safe Use of Pesticides Safe Use of Pedestrian Controlled Two-Wheel Tractor Tractor Driving and Related Operations (Units 1,2,& 3) Fork Lift Truck Operations	8
Hop Production	HP 1, 2, (3), 4, (5), 6, 7 <i>part</i> 2, (8).	HP 7 <i>part</i> 1, 9.	Safe Use of Pesticides Tractor Driving and Related Operations (Units 1,2,& 3)	5
Nursery Stock Production	NS (1), 2 <i>part</i> 1, (3), 4, (5), (6), 8, 9, 10, 11.	NS 2 <i>part</i> 2, 7.	Safe Use of Pesticides Tractor Driving and Related Operations (Units 1,2,& 3)	5
Outdoor Vegetable Production	OV 1, 2, 3, (4), (5), 6, 7, (8), (9), (10), (11), (12), 13, 14, 15, 17, 22.	OV 16, (17), (18), 19, 20, (21), 23.	Fork Lift Truck Operations Safe Use of Pesticides (Units PA1 & either PA6 or PA4) Tractor Driving and Related Operations (Units 1, 2, & 3) Tractor Driving and Related Operations (Unit 4) Safe Use of Pedestrian Two-Wheeled Tractors Safe Use of Pesticides (Units PA1 & PA2) Fork Lift Truck Operations	6
Watercress Production	WC 1, 2, 3, (4), 5, 6, (7), 8,	WC (10), 11,	Tractor Driving and Related Operations (Units 1, 2,& 3) Fork Lift Truck Operations	8

	9.	12, 13.	Safe Use of Hedge Trimmers Safe Use of Pesticides (Units PA1 & PA2)	
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Notes:

(a) Will not attract Government funding

(b) Accredited for Government funding purposes (Equivalence Table can be obtained from NPTC)

(c) Can include activities from the Accredited Certificate of Competence and Category Based Activity lists, but must include all compulsory activities (code numbers in brackets)

### Category based proficiency tests leading to craft rates of pay - Forestry

Craft	Activity		Number of Activities to be Achieved (c)	
	Category Based Activity (a)	Category Based Activities replaced by Certificates of Competence (b)		
<b>FORESTRY TESTS</b>				
Forest Operations - Establishment Work	EF (1), 4, 5, 6.	EF (2), (3), 7.	Brush Cutting Operations Chain Saws and Related Operations (Units 30, 31, & 32) Tractor Driving and Related Operations (Units 1, 2, & 3)	5
Forest Operations - Harvesting Work	HF 4, 5, 6, 7.	HF (1), (2), 3, 8, 9.	Chain Saw and Related Operations (Units 30, 31 & 32) Chain Saw and Related Operations (Unit 30.2 - previously 36) Chain Saw and Related Operations (Unit 35) Tractor Driving and Related Operations (Units 1, 2, & 3) Forest Machine Operations (Units FMO4)	4
Forest Operations - Mechanised Work	MF 5, 6, 8, 9.	MF (1), (2), (3), (4), 7.	Tractor Driving and Related Operations (Units 1, 2, & 3) Machine Maintenance & Related Operations Forest Machine Operations (Unit FMO3) Forest Machine Operations (Unit FMO4) Safe Use of Hedge Trimmers	5
Forest Operations - Nursery Work	NF 1, (2), (3), 4, 5, (6), 10, (11), 12.	NF (7), 8, 9.	Tractor Driving and Related Operations (Units 1, 2, & 3) Fork Lift Truck Operations Safe Use of Pesticides	5

**Notes:**

- (a) Will not attract Government funding
- (b) Accredited for Government funding purposes (Equivalence Table can be obtained from NPTC)
- (c) Can include activities from the Accredited Certificate of Competence and Category Based Activity lists, but must include all compulsory activities (code numbers in brackets)

## Schedule 6 - Employer's declaration of worker's achievement of competences

Agricultural wages board for England and Wales

### Employer's Declaration of a Worker's Achievement of Competences

- Employer to complete in BLOCK LETTERS and BLACK INK

#### AGRICULTURAL WAGES ACT 1948

#### CERTIFICATE OF NON-ACCREDITED COMPETENCES

IT IS HEREBY CERTIFIED for the purposes of Article 14 of the Agricultural Wages (England and Wales) Order 2012 made under the above Act that:

.....  
of.....

having being designated as a Grade 3 Team Leader on.....is deemed to have achieved the following non-accredited competences in:

1...Establishing and maintaining relationships with others

2...Maintaining supplies of physical resources

These two competences can be used, in combination with accredited competences as necessary, for entry to Grades 2, 3, or 4, as permitted under the Agricultural Wages (England and Wales) Order 2012.

Signature.....Date.....

## Schedule 7 - Summary of minimum wage rates

(Pounds) All rates rounded to the nearest penny

Grade		Rate Per Week	Rate Per Hour	Overtime Rate Per Hour
Grade 1	Compulsory School Age	-	3.11	4.67
	Above Compulsory School Age	242.19	6.21	9.32
Grade 2	Standard Worker	271.44	6.96	10.44
Grade 3	Lead Worker	298.74	7.66	11.49
Grade 4	Craft Grade	320.19	8.21	12.32
Grade 5	Supervisory Grade	339.30	8.70	13.05
Grade 6	Farm Management Grade	366.60	9.40	14.10
Apprentices Year 1		139.23	3.57	5.36
Apprentices Year 2:				
	Age 16-17	143.52	3.68	5.52
	Age 18-20	194.22	4.98	7.47
	Age 21+	241.41	6.19	9.29

Night Work Rate (£ per hour)
1.36

Dog Rate	7.63
(Per Dog/Week)	

FLEXIBLE WORKERS				
	Number of Days Basic Hours Worked	Rate Per Week(39 Hours)	Rate Per Hour	Overtime Rate Per Hour
Grade 1 Initial Grade	4 to 5	254.28	6.52	9.32
	6	258.96	6.64	9.32
Grade 2 Standard Worker	4 to 5	285.09	7.31	10.44
	6	290.55	7.45	10.44
Grade 3 Lead Worker	4 to 5	313.56	8.04	11.49
	6	319.80	8.20	11.49
Grade 4 Craft Grade	4 to 5	336.18	8.62	12.32
	6	342.42	8.78	12.32
Grade 5 Supervisory Grade	4 to 5	356.46	9.14	13.05
	6	363.09	9.31	13.05
Grade 6 Farm Management Grade	4 to 5	384.93	9.87	14.10
	6	392.34	10.06	14.10