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Briefing Note

GLA Interpretation on Non-Payment of Agricultural Wages Overtime

In the Agricultural sector it is a statutory requirement for overtime (at a minimum of time and a half of the Agricultural Minimum Wage) to be paid for any work over eight hours on any one day, any work in excess of total contracted hours in a week (or other period if shorter) or any work in excess of 39 hours in a week.

To provide clarity on a couple of common scenarios:

Example 1 - Workers work at agricultural and non agricultural assignments in the same week.

In this case the hours worked in non agriculture are disregarded. Overtime rates only apply once a worker has completed the requisite number of agricultural work hours.

Example 2 - Workers are used by a labour provider at various agricultural assignments. For example: The worker works 20 hours at Farmer 1, 15 hours at Farmer 2, 18 hours at Farmer 3. Total of 53 hours.

In this case the Agricultural Wages Order obliges the labour provider to pay the workers overtime if their hours exceed 8 in any one day or 39 in a week regardless of whether this cost can be passed onto the labour user.

The GLA regard non payment of overtime to agricultural workers to be a breach of the minimum wage licensing standard standard 2.2. This is a critical Licensing Standard, which means that any labour provider not paying overtime in accordance with the Agricultural Wages Order will be regarded as a non-compliance and will result in a licence revocation without immediate effect.

The ALP regards this to be a disproportionate penalty although the GLA have refused to change their position on this.