

Information for seasonal agricultural workers from the European Economic Area on your rights and support whilst in Scotland



Introduction

This leaflet aims to inform agricultural workers from the European Economic Area¹ in Scotland of your rights and what you can do if you think your rights are not being protected. It also sets out what you should do to keep yourself and others safe during COVID-19.

Thank you for coming to work in Scotland. Your work is a vital contribution to Scotland's economy. Whilst you are here, both at work and in your free time, it is very important that you follow all the COVID-19 guidance, in order to keep yourself and others safe. This is subject to change and you can find up to date information here: <https://www.gov.scot/collections/coronavirus-covid-19-guidance/>

The information contained in this leaflet is provided as guidance only. It does not provide legal advice on the Agricultural Wages (Scotland) Order 2020 or on legal matters generally. For more information, see the Agricultural Wages Guide: <https://www.gov.scot/publications/agricultural-wages-scotlandtwenty-fourth-edition-guide-workers-employers/>.

General Information

You have the right to work for any employer in Scotland, at any time. You have the same right to work in Scotland – and the same rights as a worker in Scotland – as any UK citizen has.

This also means that you have the right to leave your current job, and seek a different type of work, or work with a different employer,

at any time, until the end of the Brexit transition period (at present, 31 December 2020).

Your employer must provide details of the terms and conditions of the work you will carry out in writing before your first day of work, this should include:

- who is employing you;
- your rate of pay;
- your working hours and holiday days;
- the location of your work; and

You should receive a pay slip on the day you are paid which shows:

- your pay, before and after deductions (such as deductions for your housing and travel if they were agreed with you in advance);
- tax and national insurance deductions required to be made by law;
- hours you worked; and
- the 'net' amount on your pay slip (after deductions) must be the same as the pay you actually receive.

Deductions can be made by written agreement between you and your employer, but must not reduce your gross pay below the level set out in the Agricultural Wages Order.

Timesheets

Employers must provide you with a time sheet on which to record your hours each day. You must complete these time sheets and give

¹ The European Economic Area includes the EU Member States, as well as Iceland, Norway and Liechtenstein.

them to your employers. You should also maintain time sheets for yourself.

Pay

In Scotland all agricultural workers must be paid at least **£8.72 per hour**.

This rate of pay remains the same for all ages and all types of workers - whether part-time, full-time, students or workers carrying out piece work. This is a minimum amount so employers may choose to pay you more than £8.72 per hour.

You must be paid for any hour which you are made to work in your contract. You must also be paid if you were available for work but your employer has, for any reason, prevented you from working.

Working Time Regulations

By law, you must not work more than an average of 48 hours per week including overtime unless you have chosen to do so voluntarily, and agreed to this in writing. You have the right to withdraw your agreement to working increased hours at any time, for any reason.

You have a right to at least 24 hours off per week and 11 hours rest between work days. A rest break of at least 20 minutes should be provided for every six hours worked.

Overtime

For the first 26 weeks you are employed, you have a right to be paid overtime if you work for more than 8 hours on any day or for more

than 48 hours in any week. The minimum rate for overtime is **£13.08 per hour**.

If you have been employed continuously for more than 26 weeks you have a right to be paid overtime if you work for more than 8 hours on any day or for more than 39 hours in any week.

Holidays

Your holiday entitlement depends on the number of days that you are expected to work in a regular working week (see table below). Where the number of days worked varies from week to week, the average number of days worked per week over a 12-week period should be calculated. **It is important that you document your hours:**

Days worked per week	Holiday entitlement (based on a 6-month contract)
1 day	4 days
2 days	6.5 days
3 days	9 days
4 days	11, 5 days
5 days	14 days
6 days	16.5 days
7 days	19 days

At the end of your employment, you must be paid for any holidays not taken.



Sick pay

Employers must pay Statutory Sick Pay (SSP) to workers when:

- you've been off sick for at least 4 days in a row (unless it's self-isolation for Coronavirus – see below), including nonworking days;
- you earn on average at least £120 a week, before tax; and
- you've told your employer you are sick within any deadline the employer has set, or within 7 days.

SSP is **£95.85 a week** and can be paid for up to 28 weeks. SSP must be paid from the fourth day of sickness.

To qualify for any Agricultural Sick Pay (ASP), you must have been in continuous employment with the same employer for at least 52 weeks. More information is available on ASP in the Agricultural Wages Guide.

Coronavirus Sick Pay

As of 13 March 2020, workers must receive Statutory Sick Pay (SSP) from your first day of self-isolation if it's because:

- you have coronavirus (COVID-19);
- you have coronavirus symptoms, for example a high temperature or new continuous cough;
- someone in your 'household' has coronavirus symptoms;
- you've been told to 'shield' by the NHS because of an underlying health condition;
- you've been told to self-isolate by a doctor or NHS 111; or
- you've been told to self-isolate by the Scottish Government 'test and protect service', because you've been in close contact with someone who tested positive.

Workers can 'self-certify' for the first 7 days off work. This means you must notify your employer and follow your workplace process but you do not have to get a note from a doctor or NHS 111.

If you have to self-isolate due to coronavirus for more than 7 days, you can get an online self-isolation note from the NHS website: <https://111.nhs.uk/isolation-note/>

Bereavement

If a member of your close family dies (for example, your child, parent, spouse or someone you lived with as if married), then you are entitled to at least 3 days paid bereavement leave.

Trade Union Membership

Trade unions protect workers' rights and provide support and legal services. You have the legal right to join a trade union and it is against the law for your employer to prevent you from joining a trade union. Unite the Union represents workers in the farming

sector, if they are union members. If you wish to join Unite the union, see 'Contact Numbers' at the end of this leaflet.

Accommodation

Any deductions for accommodation (other than a house) must not be more than £8.20 each day.

If your employer provides you with accommodation:

- you should have your own bed, with mattress. You should be told in advance if you need to provide your own bedding;
- curtains or blinds should be provided for windows;
- toilets and showers should be easy to clean and kept in working condition;
- electrical equipment must be safe and maintained;
- gas safety checks must be carried out annually and displayed for those living in accommodation;
- single sex sleeping must be provided except in family accommodation;
- external doors should be lockable;
- fire exits should be clearly marked in accommodation;
- accommodation must be wind and watertight; and
- an affordable form of heating should be provided in bedrooms that heats the room to at least 18 °C.

Transportation

If your employer provides you with transportation to and from work:

- vehicles must be safe and inspected for safety on a daily basis; and
- all drivers must be properly trained and have a license to drive the vehicle if driving on a road.

Health and Safety

There are laws in Scotland to protect your health and safety whilst you are working:

- before you start work, your employer should give you guidance on health and safety and tell you what to do in an emergency;
- you should be given the name of an individual at work who you can speak with if you have concerns about health and safety provisions on site;
- you should be told about how to access to first aid equipment and who the appointed 'first aiders' are on the work site;
- you should have easy access to clean drinking water, clearly marked as such;
- your health and safety training must be paid for by the employer and time spent training should be treated as an extension of time at work;
- you should be given weather protective clothing needed so you can do their job, such as raincoat and waterproof boots, warm leggings and gloves; and
- if your job requires you to be exposed to other health and safety risks, then your employer should provide protective equipment free of charge. This can include safety helmets, hard hats, gloves, eye protection, high visibility clothing, safety footwear and safety harnesses.

If you have concerns about the health and safety conditions at your work, or about workplace injuries, you should contact the Health and Safety Executive (HSE), see 'Contact Numbers' at the end of this leaflet.

Coronavirus (COVID-19)

Entering the UK

As of Monday 8 June, all residents and visitors entering the UK are subject to new measures due to coronavirus (COVID-19). If you are a seasonal agricultural worker, you must remain on the farm where you are working and staying for 14 days. Please visit the Scottish Government website for further information:

<https://www.gov.scot/publications/coronavirus-covid-19-publichealth-checks-at-borders/pages/exemptions/>

Please be aware that current guidance relating to coronavirus (COVID-19) is subject to change. Stay updated on the latest guidance here: <https://www.gov.scot/coronaviruscovid-19/>

Reducing risks in the workplace

Your employer has received guidance on how to protect workers from COVID-19, including ways of changing the work environment to minimise risk. Your employer should:

- ensure 2 metres of physical distancing between workers wherever possible; and at all times in places where workers have breaks or eat food;
- where 2-metre distancing is not possible, your employer should use other measures, such as physical screening, and minimising the numbers of workers in one area, to keep you safe;
- ensure there is adequate ventilation (for example, all vents should be opened in polytunnels);
- provide all PPE (Personal Protective Equipment) required for work activities, along with training and instruction on how to use it;
- ensure all equipment is cleaned and disinfected regularly; and

- identify and disinfect key touch points regularly, for example, door handles, hand-rails, keypads, and vending machines.

You must protect yourself and others from COVID-19. To do this you should:

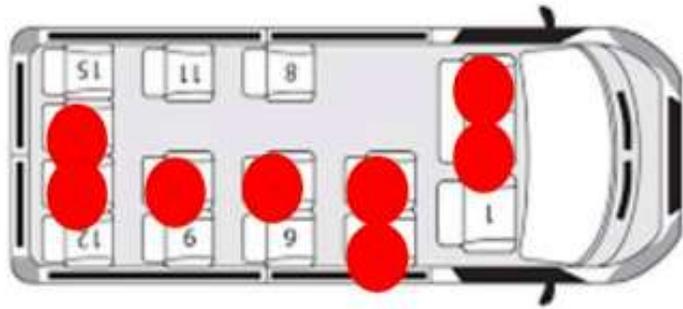
- keep a physical distance of at least 2 metres from other people wherever possible;
- wash your hands regularly, for at least 20 seconds, with soap and water;
- avoid touching your face;
- ensure that any surfaces you come into contact with are cleaned and disinfected regularly;
- wash your hands before and after using shared machinery;
- use all PPE as instructed;
- wear a face covering on public transport and in shops; and
- not share phones.

If you have concerns about protecting yourself and others from COVID-19, raise them with your employer.

Reducing risks in accommodation

Workplace housing units, for example, caravans, are treated as “households”. You cannot live or stay in more than one household. If one person in your household becomes ill with COVID-19 symptoms, everyone in that household must self-isolate.

Reducing risks in transport



Example of a bus with reduced numbers of passengers - the seats coloured red should be left empty

Your employer should:

- check your health status before you go to work each day;
- if you are ill on the way to work or on site, your employer should help you get back to your accommodation quickly;
- ensure workers are spaced out in any vehicle that is used to transfer you to and from work; and
- clean vehicles after each trip, for example, by disinfecting handles and key touch points.

You should:

- spread out as much as possible in work vehicles;
- follow the stay at home guidance on NHS inform (see link below);
- not touch your face, and wash your hands for at least 20 seconds immediately before and after the journey; and
- use a face covering when travelling with others in enclosed vehicles.

Alternative methods of transport should be considered, (such as cycling, walking or public transport) where a 2-metre separation in a vehicle cannot be met.

Discrimination

It is against the law in Scotland for an employer to discriminate against workers on the basis of age, sex, race, disability, marriage and civil partnership, sexual orientation, gender reassignment, pregnancy and maternity, and religion or belief.

It is against the law to offer less favourable pay and conditions to men and women for equal work or to offer less favourable pay and conditions to workers on the basis of their working pattern, for example, part-time or full-time or contract, fixed term or permanent.

If you or someone you know is a victim of any of these forms of discrimination, you can contact the Equality Advisory and Support Service for more information and advice see 'Contact Numbers' at the end of this leaflet.

Healthcare

For up to date information on COVID-19 please see the NHS inform website: <https://www.nhsinform.scot/>

All EEA nationals in Scotland are entitled to register with a general practitioner to receive primary care without charge and to receive secondary care (hospital or specialist treatment) without charge on the same basis as UK nationals living in Scotland.

For more information, see this factsheet "EU Citizens and Your Right to NHS Healthcare" at <https://justcitizens.scot/EU>

Further information is also available on the NHS Inform website:

<https://www.nhsinform.scot/care-support-and-rights/healthrights/access/healthcare-for-overseas-visitors#overseas-workers>

Coronavirus (COVID-19) Healthcare

You must tell your employer if you are ill or have any symptoms of COVID-19.

If you have symptoms you should apply for a free COVID19 test. You can do this through your employer or by going to:

<https://www.nhsinform.scot/campaigns/test-and-protect>

You should return to your accommodation immediately and stay at home for 7 days if you have any of the following symptoms:

- a high temperature – you feel hot to touch on your chest or back (37.8oC or more);
- a new, continuous cough – have a new cough that’s lasted for an hour; have had 3 or more episodes of coughing in 24 hours; are coughing more than usual; or
- a change in sense of smell or taste (anosmia)

Use the information on NHS inform for advice on what to do next:

<https://www.nhsinform.scot/>

If your symptoms don’t get better after 7 days, use NHS inform or call 111 (free to call) to find out what to do next. You have the right to ask for an interpreter in your language.

Diagnosis and treatment of COVID-19 in Scotland is free of charge for everyone, this means:

- testing for COVID-19 is free, even if the result is negative;
- treatment provided for COVID-19 is free;
- no immigration checks are required for overseas visitors that are known to be only undergoing testing or treatment for COVID-19; and
- National Health Service (NHS) Boards in Scotland never pass on patients’ immigration details to the Home Office.

Staying in Scotland

You have the right to remain in Scotland when you have finished seasonal work, until the end of the Brexit transition period (at present, 31 December 2020). You also have the right to bring your family members to join you to live in Scotland during this time.

After the end of the Brexit transition period, EU law will no longer apply. If you and your family members wish to stay in Scotland after the end of the transition period, you must apply under the EU Settlement Scheme for either Settled Status (indefinite leave to remain) or Pre-Settled Status (limited leave to remain for 5 years), before 30 June 2021.

For more information about applying under the EU Settlement Scheme to Stay in Scotland, contact the **EU Citizens Support Service** helpline at Citizens Advice Scotland on 0800 916 9847 (Monday to Friday, 9am to 5pm) - or you can find your local advice bureau at:

<https://www.cas.org.uk/bureaux>

You can also contact Fife Migrants Forum on 01592 642927 (Monday to Friday, 9.30am-3pm).

Accessing Housing and Benefits

If you are homeless or at risk of homelessness, and you have been working or jobseeking in Scotland, you have the right to apply to the local authority for homelessness accommodation in Scotland.

You may also have the right to apply for financial assistance. To be eligible for some forms of financial assistance, you must have worked in the UK for a minimum of three months, but some help is available even if you have worked for a shorter period of time.

For more information, see the factsheets “EU Citizens and Your Right to Housing” and “EU Citizens and Your Right to Benefits and Social Work Support” at <https://justcitizens.scot/EU>.

Safety and Protection

You have an equal right to protection from physical harm, injury, assault and abuse as every other person in Scotland.

If you are a victim of a serious crime or abuse, or you fear you may be imminently harmed, you **should call the police on 999** for immediate help and protection. For non-urgent reports to the police, call 101.

Human Trafficking and Exploitation

Human trafficking, slavery, servitude and forced or compulsory labour are crimes in the UK with serious punishment. If you are experiencing or have seen others experience these crimes you should call the police on 999 for immediate help and protection. Other sources of information and guidance are the Modern Slavery Helpline.

The following are signs of possible labour exploitation:

- deception or misleading information (oral or written) about the work and working conditions you would find;
- physical or sexual violence towards workers;
- intimidation or threats to workers and/or insulting behaviour to make them feel vulnerable;
- restriction of workers’ movements;
- pressure or force to work excessive overtime;
- abusive working and/or living conditions;
- making people work to pay off a debt that is ever increasing so that it gets much higher than its original value;
- keeping back wages or making high wage reductions in order to make workers stay in a job; and
- employers or visa sponsors holding on to passports and identity documents.



If you think you're being trafficked you can either call the police on 999 if it's an emergency. For non-emergencies, call 101 or if you do not want to speak to the police you can call the Modern Slavery Helpline on 0800 0121 700 or fill out the Modern Slavery Helpline online form: <https://www.modernslaveryhelpline.org/scotland>

If you're a victim of human trafficking the police or Modern Slavery Helpline will:

talk to you about what has happened; and refer you to a support provider who can provide safe accommodation for up to 90 days.

Contact Numbers

Emergencies: 999 - Police, ambulance or fire and rescue (ask for an interpreter if needed)

Police Scotland number for non-emergencies: 101

General Information

Scotland's Citizens Advice

Helpline: 0800 028 1456 (Monday-Friday 9am till 5pm, English only)

Website: <https://www.cas.org.uk/bureaux>

Scottish Agricultural Wages Board

Terms and Conditions for Agricultural Workers in Scotland Helpline: 0131 244 9749/ 9750 (Monday-Friday 9am till 5pm, English only)

E-mail: sawb@gov.scot

Fife Migrants' Forum

<http://fifemigrantsforum.org.uk/>

Helpline: 01592 642927 (interpreter available in Polish, Romanian, French, Arabic and English)

Email: info@fifemigrantsforum.org.uk

Rights of EU Citizens in Scotland

Factsheets from the JustCitizens Project (in English, Polish, Romanian, Lithuanian, Spanish and Italian)

<https://justcitizens.scot/EU>

Changing Employer

Concordia – Pilot Operator (Advice & to change employer)

Helpline: 07739237386 (24 hours/7 days a week, English only)

Trade Union Membership

Unite the Union Dundee (English only)

Helpline: 01382 227 369

Website: www.unitetheunion.org

Health and Safety

Health and Safety Executive (HSE)

- Incident Contact Centre for reporting injuries: Helpline: 0345 300 9923 (opening hours Monday to Friday 8.30 am to 5 pm, English only).
- Health and safety concerns
Website, including link to health and safety concerns form: <https://www.hse.gov.uk/contact/concerns.htm>
Helpline: 0300 003 1647 (to get assistance to complete in the health and safety concerns form, Monday, Tuesday, Thursday, Friday 8.30am to 5pm, Wednesdays 10am to 5pm, English only).

Coronavirus (COVID-19)

RSABI

If you have to self-isolate because of illness and are worried about financial support, or if you have other difficulties, please contact RSABI's confidential helpline.

Helpline 0300 111 4166 (7 days a week from 7am till 11pm, English only)

Discrimination

Equality Advisory and Support Service:

Helpline: 0808 800 0082 (Monday - Friday: 9am - 7pm, Saturday: 10am - 2pm, English only)

Website: <https://www.equalityadvisoryservice.com/>

Healthcare

NHS Helpline: 111 (Ask for an interpreter if needed)

Coronavirus (COVID-19) Healthcare

NHS coronavirus helpline: 0800 028 2816

Website: <https://www.nhsinform.scot/illnesses-andconditions/infections-and-poisoning/coronavirus-covid19/coronavirus-covid-19-general-advice>

Safety and Protection

Gangmasters and Labour Abuse Authority

Helpline: 0800 432 0804 (Ask for an interpreter if needed)

Website: www.gla.gov.uk

Email: intelligence@gla.gov.uk

Human Trafficking and Exploitation

Modern Slavery Helpline

Helpline: 0800 0 121 700 (24 hours a day, 7 days a week, ask for an interpreter if needed)

Website: www.modernslaveryhelpline.org

Migrant Help (support for all adult victims of trafficking in Scotland, except females exploited for commercial sexual exploitation)

Telephone: 0141 884 7900

Emergency out of hours number: 0141 212 8553 (24 hours a day, 7 days a week, ask for an interpreter if needed)

Email: Scotland@migranhelpuk.org

Website: www.migranhelpuk.org

The TARA Service (support for women trafficked in/to Scotland for commercial sexual exploitation)

Helpline: 0141 276 7724 (24 hours a day, 7 days a week, ask for an interpreter if needed)

Website: www.tarascotland.org.uk

Staying in Scotland (EU Settlement Scheme)

EU Citizens Support Service helpline at Citizens Advice Scotland

Helpline: 0800 916 9847 (Monday to Friday, 9am to 5pm, ask for an interpreter if needed)

Website: <https://www.cas.org.uk/bureaux>

This leaflet has been written by the charities: Focus on Labour Exploitation, Fife Migrants Forum and JustRight Scotland, together with the Scottish Government