



Agricultural Pay and Conditions: Future Policy for a
Statutory Minimum Wage and other conditions in
Agriculture and the role of the Scottish Agricultural
Wages Board.

SUPPLEMENTARY PAPER

Introduction

Unite – the Union Scotland represents around 200,000 working people and their families throughout Scotland. Unite is the UK’s largest trade union with 2 million members in a range of industries including transport, construction, financial services, manufacturing, print and media, the voluntary and non-profit sectors, local government and the NHS.

As a Union with a significant membership in the wider agricultural sector including manual, craft and lead workers, logistical and forklift drivers, engineering, construction, machine operators and meat processors; we strongly support the retention and the expansion of the remit of the Scottish Agricultural Wages Boards (SAWB hereafter).

We do so on the basis of the Orders set by the SAWB constituting a model of best practice in industrial relations including: the removal of discriminatory age wage rates and enhanced holiday entitlements above the statutory minimum; the longstanding role performed by the Board; the unique nature of the work conducted by those in the sector; the notoriously high fatality and injury rates in agriculture; and the prevalence of gangmasters in the sector particularly in light of over 9,000 migrant workers from the EU accession states in Scotland working in agriculture activities who are at a greater degree of risk to exploitation.

1 Context

The functions of Non-Departmental Public Bodies, which the SAWB is classified as, are normally reviewed at least once every five years with the last one being for the SAWB in 2005.

However, on January 30, 2008, First Minister Alex Salmond made a statement in Parliament about the Scottish Government’s plans to re-organise public services with an intention to reduce the 199 national public service organisations by at least 25 per cent.

The paper which accompanied the statement by the First Minister titled 'The First Minister's Statement on More Effective Government' (January 2008) identifies that a review of the SAWB will occur several years in advance. The paper states:

"The Scottish Government will make substantial changes to the environmental and rural affairs institutional landscape through improved integration of marine management functions; the merger of the Deer Commission with Scottish Natural Heritage, and the abolition of the Advisory Committee on Sites of Special Scientific Interest. We will also merge the Scottish Agricultural Science Agency into Scottish Government and bring forward the review of the Agricultural Wages Board." (Page 3)

It is the intention of the Scottish Government in the context of the review to merge nine organisations and bodies who are involved in environmental and rural services including the SAWB into one single body, which is a proposal Unite – the Union strongly rejects.

2 Remit

Wage setting in Scottish agriculture has been in place in various forms since 1917. The Agricultural Wages (Scotland) Act 1949 consolidated the regulatory Acts of 1937 and 1940 and provided for the establishment of the SAWB. Under the 1949 Act and its subsequent amendments, the SAWB was empowered to make Orders fixing minimum wage rates, holiday entitlement and other conditions of service for agricultural workers in Scotland.

The expression 'agricultural workers' covers workers in agriculture and horticulture including market gardens, gardens and nursery grounds, but at present it excludes those in private or ornamental gardens. It also applies to foresters and workers in certain types of fish farming.

2.1 Key Facts

- Wage fixing in agriculture in Scotland since 1917
- The SAWB was established in 1949
- Sets minimum wage level and other minimum terms for workers in agriculture and horticulture.
- Made up of 6 employers representatives, 6 Unite – the Union and 5 ministerial appointees
- Cost of operation estimated is £130,000 (Source: Scottish Government)
- The number of workers covered by the orders made by the Scottish Agricultural Wages Board is **25,000**

3 Key Features

The current Order effective from Monday, 1 October 2007 is as follows:

- A minimum hourly rate of **£5.52** for all workers in the **first 26 weeks** of employment (3.2% increase).
- A minimum hourly rate of **£5.96** for all workers employed for **more than 26 weeks** by the same employer (4.5% increase).
- The rates of pay which came into effect on 1 October 2007 are compatible with National Minimum Wage (NMW) requirements where necessary.
- Workers who have been with the same employer for more than 26 weeks and who hold a Scottish (or National) Vocational Qualification in an agricultural subject at Level III or above are entitled to be paid an additional sum of at least **£0.90** per hour from 1 October 2007.
- Overtime must be paid when a worker works for more than 8 hours on any day or for more than 39 hours in any week. The minimum hourly rate of payment for overtime is the minimum hourly rate of pay to which the worker is entitled multiplied by 1.5 (i.e. all workers regardless of age get paid **£8.28** up to 26 weeks and **£8.94** over 26 weeks).
- A worker is entitled to **5 weeks** holiday per year and 4 special holidays are set (Christmas Day; New Year's Day; first Monday in May and October).

4 Success of the SAWB

- NFU has previously supported retention in recognition of the unique nature of employment relationship;
- Equal pay and conditions achieved for women following 1993 equality audit;
- Cost to employers of individual negotiations (e.g. time and money involved)
- SAWB rates include age groups excluded from NMW
- SAWB holiday rates i.e. 5 weeks holiday per year being greater than the statutory minimum period of annual leave;
- SAWB terms better in other areas e.g. overtime, holiday pay, paid leave stand-by rates, and 39-hour week.

One recent case example which clearly demonstrates the success of the SAWB is in relation to one employer who forced mainly migrant workers to work 39 hours over 4 days under one contract of employment and a further 39 hours over 3 days on another. Using different employer names for each contract, this employer was not only breaching the wages order but also the Working Time Regulations. These workers were not paid for the overtime they had clearly worked; they only ever received plain time, and not at the minimum amount set by the board, nor even the National Minimum Wage.

The workers had to pay for the compulsory transport to work when the company moved them to another site in order to not pay them the over 26 weeks' employment rate under the order. They were also forced to continue working into late evening because, when you're forced to take the company transport – you have to wait until that transport is ready to take you home. The Board and its inspectorate put an end to this blatant exploitation – but without these provisions it may and likely would – happen again.

5 Nature of the industry

- Work in isolation - lack of local collective cohesion, limits ability to negotiate with individual employers;
- High dependency on employer e.g. 32% of employees in tied accommodation
- Lack of mobility - few alternative employment in many rural areas;

- Lack of management structures and procedures;
- High skills mix - animal husbandry, arable skills, building & mechanical skills
- Higher costs of living and lack of services in rural areas for example transport and housing;
- Dangerous industry - according to the Health & Safety Executive of the main industrial sectors agriculture had the second highest rates of fatal injury in 2006/07 and the highest rate of self-reported non-fatal injuries to workers of any sector.

Scottish Agricultural workers are not comparable to other workers in Scottish Industry. Whilst other sizable groups can enter into collective bargaining agreements on a workplace or individual company basis, farm workers cannot in the vast majority of cases meet the threshold for statutory recognition rights.

For example, out of the 6,632 holdings in Scotland that employs full-time employees, only 176 employ 7 or more workers.

- 3,753 employ 1 FTE
- 1,608 employ 2 FTE
- 596 employ 3 FTE
- 288 employ 4 FTE
- 211 employ 5-6 FTE

Therefore, out of 6,632 holdings, 6,456 employ less than 7 FT staff.¹ These statistics demonstrate that although the Scottish Government may be of the view that the National Minimum Wage and the Working Time Regulations replicate in part the provisions of the SAWB, they do not encompass the minimum standards contained within the SAW Act to effectively regulate a low density, geographically disparate and the isolated nature of this industry. The latter point also has very important implications for the scale of the responses by those working and representing those workers in the industry seeking to retain the Board, which we expect to be low for the aforementioned reasons.

¹ Economic Report on Scottish Agriculture, p88, Scottish Executive, 2007

However, we strongly urge that the merits of this case should not be based on the numerical numbers of the response for or against the retention of the SAWB but on the merits of the case. Based on this critical condition we believe it would be highly detrimental to the industry and the workers if the Board was not retained.

6 Case Studies

6.1 Northern Ireland

Several years ago, when it was announced that the Northern Ireland Agricultural Wages Board (NIAWB) would be abolished, the Union was able to assist in getting the decision reversed. The Secretary of State for Environment, Food and Rural Affairs, Barry Gardiner, in April 2007, responding to a question as to the reasons for the retention of the AWB said it was because of *“the fragmented and isolated nature of the agricultural workforce, the strong link between home and job, and the need to protect migrant and seasonal workers from exploitation.”*

In addition, in October 2007 in the Northern Ireland Assembly, the Minister of Agriculture and Rural Development Ms Michelle Gildernew MP MLA said the following in response to a question as to what steps she will take to abolish the Agricultural Wages Board:

“In the absence of an alternative mechanism to protect the rights of agricultural employees I have decided not to abolish the AWB at this time. To abolish the AWB would place agricultural workers in the North of Ireland at a financial disadvantage when compared with agricultural workers in the rest of the United Kingdom. This is particularly important in the context of ensuring the rights and privileges of migrant workers and minority communities here are protected”.

6.2 England and Wales

In England and Wales, agricultural workers benefit from higher pay grades than those working in Scotland. The Grade 1 pay rate for workers over compulsory school age

increased by 3.2% from £5.35 to £5.52 per hour while the pay rates for Grades 2-6 increased by approximately 4.5% taking the rate for a Grade 2 Standard Worker from £5.74 to £6.00 per hour from October 2007 (see following table).

Grade		Rate Per Week	Rate Per Hour	Overtime Rate Per Hour
Grade 1	Compulsory School Age	-	2.76	4.14
	Above Compulsory School Age	215.28	5.52	8.28
Grade 2	Standard Worker	234.00	6.00	9.00
Grade 3	Lead Worker	257.40	6.60	9.90
Grade 4	Craft Grade	276.12	7.08	10.62
Grade 5	Supervisory Grade	292.50	7.50	11.25
Grade 6	Farm Management Grade	315.90	8.10	12.15

These pay rates take effect immediately in contrast with Scotland where two minimum rates are in place based on the length of employment prior to and after 26 weeks. Unite – the Union believes that workers in Scotland’s agricultural sector should not be financially disadvantaged and that they should benefit from the higher minimum pay levels that workers in England and Wales receive.

In response to a question by Karen Gillon MSP on this very point, the relevant Minister, Richard Lockhead MPS, responded:

“We will give very careful consideration to future arrangements for determining the pay and conditions of service of agricultural workers in Scotland as part of the review of the Scottish Agricultural Wages Board.”

Furthermore, it is important to highlight that following previous attempts to abolish the AWB in England and Wales it should be noted that the Union has been able to mobilise the resources of church groups, Citizens Advice Bureaus and rural bodies to successfully keep the AWB in England & Wales.

7 International recognition

- Social Charter of the Council of Europe Article 2 calls for additional holidays and reduced hours for dangerous & unhealthy occupations;
- ILO Convention 99 - calls for a minimum rate in agriculture with an adequate machinery for creation and enforcement;
- Both the United Kingdom (from 1953) and Ireland (from 1978) are signatories to the Convention Concerning Minimum Wage Fixing Machinery in Agriculture (ILO No 99 - 28.6.1951). This Convention, in Article 1.1, states that, *“Each Member of the International Labour Organisation which ratifies this Convention undertakes to create or maintain adequate machinery whereby minimum rates of wages can be fixed for workers employed in agricultural undertakings and related occupations”*.

CONCLUSION

- Retain the SAWB and extend coverage to agriculture & horticulture-related workers who are presently excluded e.g. some estate workers & private gardeners, and some packing station workers;
- Extend the benefits of higher pay levels which agricultural workers in England and Wales receive to those in Scotland to end two-tierism and to help attract people with the required skills into this important sector;
- Consider measures to improve the enforcement of SAWB rates and to effectively tackle rogue employers operating and exploiting workers in the agricultural sector.

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