

Agricultural Wages Board - Detailed arguments

We believe that the Government will advance a number of arguments for abolition of the AWB which are spurious, in our view. The main lines of argument are laid out below, with our responses:

The Agricultural Minimum Wage duplicates the National Minimum Wage and adds unnecessary regulatory burden for agriculture and horticulture industries. It could cause particular difficulties for horticulture packaging businesses where some workers may fall within the terms of the Agricultural Minimum Wage regime and others within the National Minimum Wage regime.

Comment: This argument is driven by the horticultural industry, who employ pickers on grade 1 at £5.95 an hour and packers on £5.93. The simple solution would be to pay everyone £5.95 an hour, but these employers will not do this. It's not an argument about regulatory burdens, it's simply about paying everyone at NMW rates. In our experience it is perfectly normal for employers to pay different rates and apply different terms to groups of employees when they are taken on under the TUPE regulations. Employers like Dairy Crest don't seem to have a problem with this. The supermarkets are driving horticulture to a position where they will apply the absolute minimum standards to workers in every area. Rather than tackle the power of the supermarkets, government and the industry would rather see everyone on the NMW, which may well result in workers' incomes being topped up by benefits and tax credits in a hidden subsidy to the industry.

The government's position is not about driving down wages in agriculture but about lifting the regulatory burdens; enabling the sector to remain 'competitive' and 'dynamic'. Therefore the Government would argue that, by being competitive and dynamic, it will generate better employment opportunities which would be good for workers.

Comment: The TUC say that in every case where the wages councils were abolished in the 1980's and 1990's, wage rates in the industry concerned fell. Farming is under immense pressure from the supermarkets and food industry to keep costs down and there is downward pressure on farm gate prices in most sectors. It is hard to see how wages will increase in such an environment. Unite are already starting to uncover examples of employers flagging up to employees that wages will be reduced when the wages board goes. It might not be intentional, but wages will be forced down post-abolition.

In terms of "competition" it's not clear what this means. Who do the industry compete with? If it's foreign imports we're talking about, the biggest impact on agriculture comes from the CAP and is nothing to do with wage rates in the UK. Farmers are happy to accept regulation when it puts cash in their pockets, but not when it comes to paying workers, it seems. What is meant by "dynamic". Farming has benefited from an extremely stable industrial relations framework, and on the whole farm workers loyally serve the same employer for decades. What's wrong with that? Why does this need to be upset, just so we can say it's now "dynamic"?

· *About 60% of agricultural workers are already paid above the Agricultural Minimum Wage for their grade.*

Comment: This statistic has never been shared with AWB members and it is not part of the stats published by Defra. We do know that 15% of farm workers are actually paid **below** their grade, which shows that abuse takes place even with a statutory framework. As regards the 60% figure, we think this requires further examination. Is this people being paid a higher hourly rate; or is it people on averaged salaries; is overtime being counted; is it people who should actually be on a higher grade who have been held on a lower grade? Who has generated this figure, given that it's not part of the Defra stats?

· *Once the Wages Board is abolished, agricultural workers in England and Wales will be brought within the framework of the National Minimum Wage and Working Time Regulations*

Comment: The NMW Act would have to be amended and enforcement would fall to HMRC inspectors. The TUC have already flagged up that there does not seem to be any provision for extra staff or training for this, although Jim Paice indicated to us that Defra had set aside funds for this. It might be worthwhile asking how much Defra has put aside, especially as the Board only costs £200k a year and it may well cost more to transfer enforcement to HMRC.

Only 20% of the workforce are on grade 1, at 2p an hour more than the NMW. The other 80% are on grades 2-6, the skilled grades. They are on rates from £6.58 an hour to £8.88 an hour so will be substantially adrift from the NMW rate of £5.93 an hour.

As far as the Working Time Regulations are concerned, it is news to us that agriculture is exempt. According to the annual report on agriculture from Defra, the average working week for full-time males currently exceeds the WTR maximum of 48 hours (49.4 hours a week). We believe that it is no coincidence that fatal accident rates per 100,000 workers are highest in agriculture, compared to any other sector of UK industry. Workers are often alone and work long hours. Tiredness and machinery or animals can be a lethal combination. We would support extension of the WTR to agriculture if workers are not already covered. However, we believe the government's agenda is more about using the holiday entitlement element of the WTR to justify abolition of the AWB than ensuring the safety of agricultural workers.

· *Although the Agricultural Wages Order covers more than simply the minimum wage rate, all other pay scales and conditions can be retained. Agricultural workers will not lose existing contractual rights unless both workers and employers agree variations.*

Comment: Firstly, this would create a two-tier workforce if it was true, with new recruits being on inferior terms to existing employees. This will not help to project farming as a skilled, professional industry or help attract the 60,000 new recruits Lantra say are needed over the next ten years. Secondly, contracts are terminated or varied all the time in UK industry. Every time a worker changes their role or employer, a new contract is issued. Changes can be forced through after a TUPE transfer for an economic, technical or organisational reason. Changes are often begrudgingly accepted to avoid redundancy situations. Or contracts are terminated by employers who give

notice and then re-engage workers on new terms. In practice, contracts are a poor protection and they can only be raised with the courts after they are broken. This will therefore be of little comfort to workers.

· *There are only about 152,000 workers who are currently within the scope of the Order.*

Comment: We estimate that a similar amount of workers are on mirror terms, even though they are not directly covered by the Agricultural Wages Act. Even if it were only 152,000 workers, the AWB plays a vital role for them, and is good value for money at just over £1 a year per worker.

· *The legislation is outdated, inflexible and difficult for farmers and workers to understand and is out of step with modern practices. The lowest Grade 1 workers only receive pay which is a matter of a few pennies above that of the National Minimum Wage.*

Comment: The only two examples of outdated practice the NFU have been able to come up with are the lack of provision for annual salaries and the lack of a fair piece rate mechanism. We have worked with the NFU and Defra to tackle both issues through a Legislative Reform Order. This could still be done, rather than abolition. The Farmers Union of Wales have argued that the AWB provides flexibility for farmers as well as ensuring that skills are recognised. The Wages Order provides for minimum rates and terms. Farmers are free to negotiate improvements if they want to, so there is flexibility if they want it. What they really mean is flexibility to pay people less, or offer worse terms.

We have this year published a guide to sit alongside the Wages Order. This is in as near to plain English as we were able to get past the lawyers, and is much easier to understand. This objection is not really very complimentary to either farmers or workers.

Grade 1 workers earn £5.95 an hour, 2p above NMW rates. They are 20% of the workforce, as explained above. However, grade 1 workers also benefit from guaranteed overtime rates, and all the other provisions of the AWB. The NFU want to see farming professionalized. This would make farming a minimum wage occupation.

· *Defra will insist that the NFU and industry representatives will provide annual guidance on different rates and conditions.*

Comment: The NFU have consistently started pay negotiations by insisting that there is no need for a pay rise. It has only been by presenting compelling arguments to the independent members on the AWB that we have won any improvements. The idea that the NFU would suddenly become generous and philanthropic overnight is fatuous and fanciful. Even if they did advise members to increase wages, bad employers will have no obligation to follow the advice and rises would be unenforceable. Good employers would be undercut and a downwards spiral would result.

Ian Waddell – National Officer, Unite M: 07768 931269, email ian.waddell@unitetheunion.org