

# **Agricultural Wages in Scotland The Scottish Agricultural Wages Board**

**A consultation document**

**June 2008**

20 June 2008

Dear Sir/Madam

**CONSULTATION ON WHETHER IT IS APPROPRIATE TO SET MINIMUM RATES OF PAY AND OTHER CONDITIONS FOR AGRICULTURAL WORKERS IN SCOTLAND**

The review of the Scottish Agricultural Wages Board was announced as part of the First Minister's statement on 30 January 2008 on simplifying public services. In undertaking the review we are seeking the views of individuals and bodies involved in agriculture on whether it is appropriate to continue to set separate minimum rates of pay and conditions for agricultural workers in Scotland and, if so how this might be done – taking account of recent and future changes and general employment legislation. We are also seeking views on the future of the Board and on alternative mechanisms for establishing pay rates and conditions for agricultural workers in Scotland. The consultation paper is also available on line at [www.scotland.gov.uk](http://www.scotland.gov.uk).

Written responses to this consultation paper are invited by **30 September 2008** although you are encouraged to respond prior to this deadline if at all possible. Please send your response to:

[Ronnie.grady@scotland.gsi.gov.uk](mailto:Ronnie.grady@scotland.gsi.gov.uk)

or

Ronnie Grady  
Scottish Government  
Rural Directorate  
Room 259  
Pentland House  
47 Robb's Loan  
Edinburgh EH14 1TY

If you have any queries please contact Louise Stewart or myself on 0131 244 6394 or 6392.

## **Handling your Response**

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form as this will ensure we treat your response appropriately. If you ask for your response not to be published then we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to this consultation exercise.

## **Next Steps in the Process**

Where respondents have given permission for their response to be made public, these will be made available to the public in the Scottish Government Library. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the Library. You can make arrangements to view responses by contacting the Scottish Government Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

If you have any comments about how this consultation exercise has been conducted, please send them to Neil Fleming, at the address given below.

Yours faithfully

**RONNIE GRADY**



## THE SCOTTISH GOVERNMENT CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general Scottish Government consultation exercises aim to provide opportunities for those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body. Consultation exercises may involve seeking views in a number of different ways, such as public meetings, focus groups or questionnaire exercises.

The views and suggestions detailed in consultation responses are analysed and used as part of the decision-making process. Depending on the nature of the consultation exercise the responses received may:

- Indicate the need for policy development or review
- Inform the development of a particular policy
- Help decisions to be made between alternative policy proposals
- Be used to finalise legislation before it is implemented

If you have any comment about how this consultation exercise has been conducted, please send them to:

Ronnie Grady  
Scottish Government Agriculture and Rural Development Division  
Room 259  
Pentland House  
47 Robb's Loan  
Edinburgh EH14 1TY  
Tel: 0131 244 6392  
e-mail: [Ronnie.grady@scotland.gsi.gov.uk](mailto:Ronnie.grady@scotland.gsi.gov.uk)

## INTRODUCTION

This document has been issued by the Scottish Government Rural Directorate to seek the views of individuals and organisations about the way in which minimum rates of pay and other conditions of service should be determined for workers employed in agriculture in Scotland.

It summarises the current arrangements and explains the role of the Scottish Agricultural Wages Board. It also compares the protection available to agricultural workers with the protection available to all other workers under general employment law.

Your views on continuing the current arrangements or altering them are invited and a questionnaire has been prepared for this purpose. You may, of course, comment on issues not addressed in the questionnaire if you wish.

### Completed questionnaire and comments

The questionnaire is attached in the centre of this document and you should address your response to:

Ronnie Grady  
Scottish Government Rural Directorate  
Room 259, Pentland House  
47 Robb's Loan  
EDINBURGH  
EH14 1TY  
Tel: 0131 244 6392  
Fax: 0131 244 6551

Responses can be made by e-mail to [Ronnie.grady@scotland.gsi.gov.uk](mailto:Ronnie.grady@scotland.gsi.gov.uk)

The closing date for responses is 30 September 2008.

Further copies of this document and questionnaire are available on request from Louise Stewart at the address shown above or by telephoning 0131 244-6397 or 6394.

This document can also be found on the Scottish Government website at: [www.scotland.gov.uk](http://www.scotland.gov.uk)

## Handling your Response

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All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to this consultation exercise.

## Other enquiries

If you have any other questions about this consultation you should contact Ronnie Grady or Louise Stewart as indicated above.

## Other relevant publications

Copies of the Agricultural Wages (Scotland) Order and an explanatory Guide to the Order can be found at:

<http://www.scotland.gov.uk/Publications/2007/08/28120146/0> or obtained from the Agricultural Wages Section telephone: 0131 244-6397 or e-mail [SAWB@scotland.gsi.gov.uk](mailto:SAWB@scotland.gsi.gov.uk).

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# 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 (SAWB)

## CONSULTATION DOCUMENT

### Purpose

1. The purpose of this consultation paper is to seek views on whether it is appropriate to continue to set minimum rates of pay and certain other conditions for agricultural workers in Scotland and, if so, how this might be done – taking into account recent and future changes to general employment legislation.

### Why a Review?

2. The Scottish Agricultural Wages Board (SAWB) is an executive Non-Departmental Public Body (NDPB) established under the Agricultural Wages (Scotland) Act 1949. The functions of NDPBs are normally reviewed at least once every five years and the last review involving the SAWB was conducted in 2004-05. This review was announced as part of the First Minister's statement on 30 January 2008 on simplifying public services. Ministers have decided that a full consultation exercise should be carried out covering the minimum pay and conditions arrangements for agricultural workers in Scotland and the role of the Scottish Agricultural Wages Board.

### What does the Scottish Agricultural Wages Board do?

3. Wage-fixing machinery in the agricultural industry in Scotland 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 Scottish Agricultural Wages Board. Under the 1949 Act and its subsequent amendments, the Scottish Agricultural Wages Board is 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 agriculture and horticulture including market gardens, gardens and nursery grounds, but excluding private or ornamental gardens from which no more than a small amount of product is sold. It also applies to foresters and workers in certain types of fish farming.

4. The Board is an autonomous body comprising:
- five independent members appointed by Scottish Ministers;
  - six members representing the interests of employers, five nominated by the NFU Scotland and one nominated by the Scottish Rural Property and Business Association; and
  - six members representing the interests of workers, nominated by Unite the Union (formerly the Transport and General Workers' Union).

### How are the Board's Orders enforced?

5. Enforcement is carried out by officers appointed by the Scottish Ministers. These officers are authorised to carry out inspections of wage records, and to require workers and employers to give information about workers' wages and conditions of employment. Enforcement procedures fall into two categories. Routine inspections are carried out on a sample of agricultural holdings each year and in the vast majority of cases, show wages and other conditions to be in accordance with the appropriate Wages Order. In cases where problems do emerge, more detailed investigations are carried out. Investigations may also be initiated as a result of a complaint about alleged non-compliance with the terms of the Wages Order.

6. In cases where arrears of pay are considered to be due to a worker, employers are given the opportunity to pay such sums via the Directorate. Failure to do so may result in the case being referred to an employment tribunal or where there is a wilful refusal to pay the minimum rate, criminal proceedings can be taken.

7. These arrangements are consistent with National Minimum Wage enforcement procedures.

### How much does the Board cost?

8. The associated costs of running the Board and enforcing its Orders amount to around £130,000 per year.

### Impact of NMW and WTR on agricultural wages

9. The introduction of the National Minimum Wage (NMW) on 1 April 1999 allowed for the Agricultural Wages Boards for Scotland, England and Wales, and Northern Ireland to continue to set minimum wage rates for agricultural workers provided that the hourly rates set were never less than the corresponding rate under NMW. The SAWB also has to take account of the holiday provisions set out in the Working Time Regulations when fixing the holiday entitlement for workers in agriculture. Details of minimum

rates of pay and overtime rates from 1 October 2007 for agricultural workers can be found at Annex A.

## Existing Arrangements

10. The following table sets out the main provisions under agricultural wages legislation and the corresponding provisions under general employment law. If any of the special provisions for agricultural workers were to be removed then the corresponding provision for other workers would apply.

Measure	Provisions for Agricultural Workers from 1 October 2007	Provisions for Other Workers covered by general employment law
Age from which minimum wage controls apply	Above minimum school leaving age	16
Age from which adult rate applies	Age related pay differentials removed	22
Range of minimum wage rates	£5.52 in first 26 weeks of employment and £5.96 thereafter	£3.40 to £5.52
Stable Income Arrangement	Voluntary option of paying wages in equal instalments for each pay period regardless of the number of hours worked in each pay period	None
Working hours to which minimum rates apply	All hours, with higher minimum rates for overtime (anything over 8 hours a day or 39 hours a week)	All hours, but one minimum rate applies throughout
Factors leading to higher minimum rates	Additional sum of at least £0.90 per hour payable on basic hours for appropriate qualification	None
Entitlement to paid holidays	5 weeks plus 4 special days designated in the Order. A week is equivalent to the number of days that an employee would be expected to work in the course of his regular working week.	24 days
Level of holiday pay	Pay in accordance with Employment Rights Act 1996	Pay in accordance with Employment Rights Act 1996
Entitlement to paid sick leave and level of sick pay received	13 weeks on full pay after 1 year's continuous employment thereafter Statutory Sick Pay (SSP) applies	SSP applies
Paternity/Adoption leave	Paternity and Adoption Regulations 2002 apply	Paternity and Adoption Regulations 2002 apply
Bereavement Leave	As for Other Workers plus 3 days <b>paid</b> bereavement leave	Right to <b>unpaid</b> time off to make arrangements
Value of Benefits	Maximum deduction from gross pay of £1.00 per week for a tied house. Not more than £4.30 for each day in the week (£30.10 per week) for living accommodation other than a house.	Maximum deduction from pay of £30.10 per week for accommodation
Standby Duty	Payment of not less than the agricultural minimum hourly rate	None
Working Dogs	Weekly allowances of £4.52 for each dog, up to a maximum of 4 dogs	None

## Seeking Your Views

11. Scottish Ministers would welcome your comments and suggestions about the future of the current statutory arrangements for determining and setting minimum pay and conditions of service for agricultural workers. Your views will help to inform future policy decisions.

The questionnaire at the centrepiece of this booklet is divided into 2 parts:

- the first is whether there is a continuing need for special provisions to apply to agricultural workers having regard to the rights which are now available to all workers under general employment law;
- the second is whether the SAWB should retain its present statutory powers, should be replaced by an advisory body or should be disbanded without any replacement body.

The questionnaire is reproduced at Annex B should you wish to keep a record of your comments.

## QUESTIONNAIRE

### 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

Completed questionnaires and other comments should be sent to:

Ronnie Grady  
Scottish Government Rural Directorate  
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47 Robb's Loan  
Edinburgh EH14 1TY  
Tel: 0131 244 6392  
Fax: 0131 244 6551  
e-mail: [Ronnie.grady@scotland.gsi.gov.uk](mailto:Ronnie.grady@scotland.gsi.gov.uk)

to be received no later than 30 September 2008.

#### General Information

1. Please provide your name and address below:

Name:

Address:

2. Please tick one or more of the boxes below:

Are you:

an employer in agriculture

a worker in agriculture

state which employer's organisation

state which worker's organisation

other, please specify .....

3. Please state which sector of the agricultural industry, if any, you are involved in.

## PART 1

Your comments

YES

NO

DON'T KNOW

Do you consider that minimum rates of pay and conditions for agricultural workers should continue to be set under special arrangements that do not apply to other workers?

If you have answered YES which of the following provisions for agricultural workers would you wish to see retained? Please add comment where you consider it appropriate.

YES

NO

Entitlement to a higher rate of pay after 26 weeks continuous employment

Comment

YES

NO

Facility to set minimum hourly rates of pay which are higher than the National Minimum Wage rates

Comment

YES

NO

Facility to set higher rates of pay for overtime work

Comment

YES

NO

Entitlement to a holiday provision of five weeks plus four days of special holidays per year

Comment

YES

NO

Entitlement to full pay during first 13 weeks of sick leave after 52 weeks continuous employment with the same employer

Comment

YES

NO

Entitlement to 3 days paid bereavement leave (in addition to the unpaid leave available to other workers)

Comment

YES

NO

Entitlement to be paid when on standby duty

Comment

YES

NO

Entitlement to an allowance for up to 4 working dogs

Comment

Please detail below any other comments you may have regarding pay and conditions for agricultural workers

Comment

## PART 2

This part seeks your views on alternative mechanisms for establishing pay rates and conditions for agricultural workers in Scotland.

Which of the following options best reflects your view:

Choose one option only:

Retain the SAWB with its present statutory powers to set minimum wage rates and other conditions of service which are legally binding on employers

Replace the SAWB by a panel chosen from the industry to advise the agricultural industry on minimum wage rates and other conditions of agricultural workers

Remove all existing arrangements for agricultural workers and having their pay and conditions determined under general employment law as for all other workers

Please use box below for alternative suggestions

Comment

## ANNEX A

### MINIMUM HOURLY RATES AND OVERTIME RATES FOR AGRICULTURAL WORKERS

#### Minimum Hourly Rates

There are 2 main pay scales. One is for workers who have been with their present employer for not more than 26 weeks and the other for workers who have been with their present employer for more than 26 weeks.

The minimum hourly rates of pay are as follows:

Minimum Hourly Rates		
All Ages of Worker	Up to 26 weeks 1 October 2007	After 26 weeks 1 October 2007
	£5.52	£5.96

#### Additional payment for qualifications

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 and those who hold a Certificate of Acquired Experience are entitled to be paid an additional sum of at least £0.90 per hour for non-overtime hours from 1 October 2007.

#### Minimum Hourly Overtime Rates

Overtime is payable when a worker works for more than 8 hours on any day or for more than 39 hours in any week. The overtime rates are as follows:

Minimum Hourly Overtime Rates		
All Ages of Worker	Up to 26 weeks 1 October 2007	After 26 weeks 1 October 2007
	£8.28	£8.94

## QUESTIONNAIRE

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an employer in agriculture

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state which employer's organisation

state which worker's organisation

other, please specify .....

3. Please state which sector of the agricultural industry, if any, you are involved in.

## PART 1

Your comments

YES

NO

DON'T KNOW

Do you consider that minimum rates of pay and conditions for agricultural workers should continue to be set under special arrangements that do not apply to other workers?

If you have answered YES which of the following provisions for agricultural workers would you wish to see retained? Please add comment where you consider it appropriate.

YES

NO

Entitlement to a higher rate of pay after 26 weeks continuous employment

Comment

YES

NO

Facility to set minimum hourly rates of pay which are higher than the National Minimum Wage rates

Comment

YES

NO

Facility to set higher rates of pay for overtime work

Comment

YES

NO

Entitlement to a holiday provision of five weeks plus four days of special holidays per year

Comment

YES

NO

Entitlement to full pay during first 13 weeks of sick leave after 52 weeks continuous employment with the same employer

Comment

YES

NO

Entitlement to 3 days paid bereavement leave (in addition to the unpaid leave available to other workers)

Comment

YES

NO

Entitlement to be paid when on standby duty

Comment

YES

NO

Entitlement to an allowance for up to 4 working dogs

Comment

Please detail below any other comments you may have regarding pay and conditions for agricultural workers

Comment

## PART 2

This part seeks your views on alternative mechanisms for establishing pay rates and conditions for agricultural workers in Scotland.

Which of the following options best reflects your view:

Choose one option only:

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Replace the SAWB by a panel chosen from the industry to advise the agricultural industry on minimum wage rates and other conditions of agricultural workers

Remove all existing arrangements for agricultural workers and having their pay and conditions determined under general employment law as for all other workers

Please use box below for alternative suggestions

Comment

