

SCOTTISH AGRICULTURAL WAGES BOARD

MEMBERS' HANDBOOK

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INTRODUCTION

The Scottish Agricultural Wages Board (SAWB) is an autonomous body established under the Agricultural Wages (Scotland) Act 1949 for the purpose of setting minimum wages and other terms and conditions of service for agricultural workers in Scotland. The Board is responsible for producing Agricultural Wages Orders, which contain the legal requirements for the calculation of minimum pay, holiday entitlement and other conditions of service for agricultural workers.

COMPOSITION OF THE BOARD AND PROCEDURES

Membership of the SAWB consists of 6 Employers' representatives (5 of whom are nominated by NFU Scotland and one of whom is nominated by the Scottish Land and Estates (SLaE), 6 Workers' representatives (nominated by Unite the Union and 5 Independent members (appointed by Scottish Ministers), one of whom is designated Chairperson. The Secretary to the Board is a Scottish Government official appointed by Scottish Ministers.

Independent members are appointed for 3 years and can be re-nominated at the end of their term. Appointments are made in compliance with the Commissioner for Public Appointments in Scotland Code of Practice. An outline of the procedures for the appointment of the Independent members to the Board is contained on page 3.

The Board deals with wage claims and other matters and normally meets for one or two days, twice a year in Edinburgh. A record of the Board's meetings is taken. Prior to each meeting of the Board, the Chairperson is sent a copy of the previous meeting's record. The record of the previous meeting is also approved at each subsequent meeting.

The Board may also appoint one or more Committees from within its ranks consisting of members representing the Employers' and Workers' representatives in equal proportions. An Independent member chairs such Committees. The Board has appointed an Ad-Hoc Committee, details of Committee procedures etc are given below. The Board sets the agenda for this committee by remitting to its issues which require detailed consideration and asking for reports and recommendations as appropriate.

AD-HOC COMMITTEE PROCEDURES

The Scottish Agricultural Wages Board Ad-Hoc Committee is set up by the Board and is made up of Board members.

The Ad-Hoc Committee consists of 7 members, made up as follows:

- 3 Independent member 1 appointed as Chairperson;
- 2 members from the Employers' Side;
- 2 members from the Workers' Side.

While each side of the industry nominates 3 of its members to serve on the Committee, in practice only 2 representatives from each side attend each Ad-Hoc Committee meeting with the third covering for absences. For consistency, the same 2 members from each side are expected to attend the meetings throughout the year. The Committee's membership is reviewed annually at the main wage negotiation meeting of the Board. The Ad-Hoc Committee generally meets to consider issues remitted to it from the Board and to make recommendations to the Board on such issues.

Papers for the Committee's meetings are sent to all Committee members 1-2 weeks before the meeting. The meetings follow a set agenda derived from the business remitted by the Board, recent developments within the industry or external influences such as National Minimum Wages, Working Time Regulations etc. The draft minutes of the meeting are circulated to the Committee members within 2-3 weeks of the meeting. The minutes are formally adopted at the next meeting. Committee members should then issue the approved minute to the other representatives on their respective sides. The Secretariat circulates the approved minute to the Board Chairperson and the Independent members. This process ensures all Board members are aware of how the issues are progressing.

THE ROLE OF THE CHAIRPERSON

The Chairperson of the SAWB is responsible for providing effective strategic leadership on matters such as:

- Formulating the Board's strategy for discharging its statutory duties;
- Representing the views of the Board to the general public; and
- Undertaking regular and effective assessments of the performance of individual Board members.

The Chairperson will ensure that the Board meets at appropriate times throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Board members.

The Chairperson will ensure that all members of the Board, when taking up office are fully briefed on the terms of their appointment, their duties, rights and responsibilities and that they receive a personal copy of the Board's Code of Conduct.

CODE OF CONDUCT FOR MEMBERS OF THE SCOTTISH AGRICULTURAL WAGES BOARD (SAWB)

The Ethical Standards in Public Life etc (Scotland) Act 2000 provides new Codes of Conduct for local authority councillors and members of relevant public bodies; imposes on councils and relevant public bodies a duty to help

their members to comply with the relevant code; and establishes a Standards Commission for Scotland to oversee the new framework and deal with alleged breaches of the codes.

Scottish Ministers approved the Scottish Agricultural Wages Board's Code of Conduct and fixed 1 May 2003 as the date on which it came into effect. As a member of the Board you will have received a personal copy of the Code and it is your responsibility to ensure that you are familiar with, and that your actions comply with the provisions of the Board's Code of Conduct. Members also have a responsibility to review at least annually their personal circumstances and to notify the Board Secretariat within one month of their circumstances changing.

The general principles upon which the Code are based are listed at Annex A.

PUBLIC APPOINTMENT PROCEDURES

The ultimate responsibility for appointment to most of the public bodies operating in Scotland rests with Scottish Ministers and must be made in compliance with the Commissioner for Public Appointments in Scotland Code of Practice. The Code aims to provide a clear and concise description of the steps to be followed throughout the public appointments process. The process is open and transparent and only people with appropriate skills, knowledge and experience are recommended to Ministers as suitable for appointment.

There are 7 principles (these are listed at Annex A) that underline the Code and have been tailored specifically for the public appointments process. These are drawn from the First Report of the Committee on Standards in Public Life and the Members Model Code of Conduct adopted under the Ethical Standards in Public Life etc (Scotland) Act 2000.

THE SCOTTISH PUBLIC SERVICES OMBUDSMAN

The Scottish Agricultural Wages Board comes under the jurisdiction of the Scottish Public Services Ombudsman who investigates complaints from members of the public who consider they have suffered injustice as a result of maladministration. The Scottish Public Services Ombudsman also investigates complaints about refusals to provide access to official information. The Scottish Ombudsman is independent of the Scottish Government and the Civil Service and has wide powers to investigate complaints. Jim Martin currently holds the Office of the Scottish Public Services Ombudsman.

FEES AND EXPENSES

1. Representative Members

i. Subsistence Allowances

Night Allowance - up to £75 receipted cost of bed and breakfast

Day Subsistence - a. more than 10 hours - £10.70

b. more than 5 hours but less than 10 hours -
£4.90

ii. Loss of Earnings

A financial loss allowance is payable subject to written confirmation from the employer of the total loss incurred

iii. Private Motor Cars – Mileage Rates

All vehicles 45p per mile.

2. Independent Members

1. Chair - Daily Fee - £248.02
Homework - £70.86

2. Others - Daily Fee - £159.20
Homework - £45.49

ENFORCEMENT OF AGRICULTURAL MINIMUM PAY AND OTHER CONDITIONS

While it is the responsibility of the Board to make Wages Orders, the Agricultural Wages (Scotland) Act 1949 as amended charges Scottish Ministers with investigating complaints and otherwise securing proper observance of the Act (and Orders made by the Board). This duty is discharged by Agricultural Wages Inspectors (AWIs) and a headquarters Enforcement Section (normally the Board Secretariat staff).

Enforcement is tackled in two ways. Firstly, there is an ongoing programme of unannounced visits to farms to check for compliance with the Wages Orders (Control Test Inspections). These are carried out by AWIs who report their findings to Enforcement Section for assessment and any follow-up action which may be necessary. Secondly, Enforcement Section also deals with complaints from workers.

In either situation, where there is *prima facie* evidence of a significant failure to pay wages at the appropriate rate or failure to comply with any other

provisions of the Wages Orders then further investigation is undertaken including interviews with the employer and worker(s) and examination of the business records. If such investigations confirm that a worker has not been fairly treated then action is taken to remedy the situation.

Wherever possible a negotiated settlement is sought on the basis of an explanation to the employer of the problems encountered and a detailed assessment of any arrears of pay which may be due to the worker(s). The employer is invited to make appropriate payment to the worker(s) within a specified timescale or to present further evidence where the facts of the case are contested. If a settlement cannot be reached in this way then a more formal process, based on the National Minimum Wage enforcement procedures, is set in train. These require the employer to either make settlement or to appeal the case to an employment Tribunal. These processes are also applied in cases where a worker has left employment before the breach has been established.

In all cases, the employer is given an explanation of where he/she has not complied with the Wages Orders and encouraged to adopt proper procedures for the future.

SCOTTISH AGRICULTURAL WAGES BOARD MEMBERS

Name

Employers

Mr Scott Walker
Mr Jamie Smart
Mr John Sinclair
Mr Donald Noble
Mr John Picken
Mr Robin Christie

Workers

Mr Scott Foley
Mr Scot Walker
Ms Donna Donnelly
Mrs Frances MacKay
Ms Kelly Graham
Mr Jim Winter

Independents

Mr John Menzies (Chair)
Mr David Nelson
Mrs Fiona O'Donnell
Mrs Afshan Rathore
Cllr Wm Howatson

SCOTTISH AGRICULTURAL WAGES BOARD SECRETARIAT

Secretary – Ken Gray
Spur D
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD
Tel: 0131 244 9749

Miss Louise Stewart
Spur D
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD
Tel: 0131 244 9750

THE SEVEN PRINCIPLES OF PUBLIC LIFE

Ministerial Responsibility

The ultimate responsibility for appointment and recommendation for appointment rests with Scottish Ministers, who will be provided with a choice of candidates from which to make the appointment.

Merit

All public appointments are governed by the overriding principle of selection based on merit. Individuals selected will be those who have demonstrated that they best match the skills, knowledge and personal qualities required for the appointment in question.

Equality

Accessibility to appointments is a fundamental requirement and the appointments process will promote and demonstrate equality of opportunity and treatment to all applicants.

Probity and Respect

Everyone engaged in the public appointments process will act with integrity and will demonstrate respect for all others involved in the process.

Independent Scrutiny

Independent scrutiny is vital to the public appointments process. An OCPAS Assessor will be involved in each stage of the selection process and must confirm that this Code has been followed before an appointment can be made.

Openness and Transparency

The practices employed at every stage in an appointment round must be transparent. Decisions taken at each stage will reflect this Code of Practice and be fully documented.

Proportionality

The practices employed during each appointment round will be appropriate for the specific post and the nature and function of the public body concerned.

ACRONYMS

ACAS	Advisory, Conciliation and Arbitration Service
AMW	Agricultural Minimum Wage
AWB	Agricultural Wages Board (for England and Wales)
AWI	Agricultural Wages Inspector
CAP	Common Agriculture Policy
CTI	Control Test Inspection
EAT	Employment Appeals Tribunal
GFW	General Farm Worker
HOPS	Harvesting Opportunities Permit Scheme
HSE	Health and Safety Executive
MAP	Modern Apprenticeship Scheme
NDPB	Non-Departmental Public Body
NFU Scotland	National Farmers Union of Scotland
NI	National Insurance
NIC	National Insurance Contributions
NMW	National Minimum Wage
OCPA	Office of the Commissioner for Public Appointments
SAC	Scottish Agricultural College
SAWB	Scottish Agricultural Wages Board
SAWS	Seasonal Agricultural Workers Scheme
SERPS	State Earnings Related Pension Scheme
SIA	Stable Income Arrangement
SMP	Statutory Maternity Pay
SPP	Statutory Paternity Pay
WO	Wages Order
WTR	Working Time Regulations
WWOOF	Willing Workers on Organic Farms
SE	Scottish Executive
SG	Scottish Government
SGRD	Scottish Government Rural Directorate
ARDD	Agriculture and Rural Development Division
PH	Pentland House
VQ	Victoria Quay
ARAD Assembly	Agriculture and Rural Affairs Department – Welsh
DARD(NI)	Department of Agriculture and Rural Development – Northern Ireland
DEFRA	Department for Environment, Food and Rural Affairs
DTI	Department of Trade and Industry
DWP	Department for Work and Pensions
HMRC	Her Majesty's Revenue & Customs
EC	European Community
EU	European Union