

DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS WELSH GOVERNMENT

Report on Wages in Agriculture

1 January to 31 December 2010

Presented to Parliament pursuant to section 13 of the Agricultural Wages Act 1948



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Introduction

This Report is presented jointly by the Secretary of State for Environment, Food and Rural Affairs and the Welsh Government.

During the period under review, responsibility for the Agricultural Wages Board for England and Wales was shared jointly by the Secretary of State for Environment, Food and Rural Affairs and the Welsh Government, except for the expenses of the Board which remained the responsibility of the Secretary of State. Responsibility for Agricultural Wages Committees rested with the Secretary of State in England and the Welsh Government in Wales.

This Report also covers the work of the Agricultural Dwelling House Advisory Committees (ADHACs). ADHACs give advice to local housing authorities when a farmer applies to the authority, requesting it to re-house an agricultural worker (or former worker) so that the cottage in which he or she lives can be made available for a new farm worker. The ADHAC considers the agricultural case and how quickly the farmer needs the cottage for the new worker.

REPORT OF THE PROCEEDINGS UNDER THE AGRICULTURAL WAGES ACT 1948

PART I

REPORT OF THE AGRICULTURAL WAGES BOARD FOR ENGLAND AND WALES

FOR THE PERIOD 1 JANUARY – 31 DECEMBER 2010

The main responsibility of the Agricultural Wages Board under the Agricultural Wages Act 1948 is to fix the minimum rates of wages, holiday entitlement and other minimum terms and conditions of employment for workers employed in agriculture in England and Wales. The Board has certain duties to ensure that the rates of pay it sets are no lower than the National Minimum Wage.

The Chairman's report of the Agricultural Wages Board proceedings during 2010 is set out in paragraphs 1 to 70 below.

Meetings

1. The Board met on five days during 2010 to consider wages and other minimum terms and conditions of employment for agricultural workers.

Reports of the Working Parties set up in 2009

2. The Board met in April 2010 to consider the reports of the Qualifications and Simplification Working Parties which had been established at the end of the 2009 negotiations.

Qualifications

- 3. The Board discussed in detail the new qualifications and credit structure which was to be introduced by the Qualifications and Curriculum Authority. Members were presented with a draft annex of qualifications which could be used for entry to Grades 2-4. It was observed that the Appendices to the Order would remain the same.
- 4. Members also discussed whether participants in the Student Worker Education Programme should be exempt from the provisions of the Order. It was noted that both Sides had agreed in principle that participants would not be covered by the provisions of the Order for the first 26 weeks of the Programme. The Programme satisfied the definition of Trainee as set out in the Order. It was a recognized scheme and the work undertaken was in the nature of work experience, much like that undertaken for the 14-19 Diploma.
- 5. The Board accordingly agreed the following recommendations:
- (i) that the list of qualifications appended to the Report of the Qualifications Working Party be adopted; and
- (ii) that participants in the Student Worker Education Programme be treated as trainees for the purposes of the Order.

Simplification

- 6. Members discussed a new style Order proposed by the Simplification Working Party. The Report of the Working Party recommended that in future the Order be published in the style of a statutory instrument. To assist interpretation of the Order the Working Party also proposed that a Guide to the Agricultural Wages Order be produced. The Guide would set out the main provisions of the Order in an easily understood manner so that it would be intelligible to the employer and worker alike.
- 7. The Board agreed that the following changes to the Order would be issued as proposals for consultation:
- (i) that from 30 September 2012 the categories of full-time flexible worker and part-time flexible worker would cease to have effect;
- (ii) that all time which an apprentice spends attending training required as part of their apprenticeship arrangements should be taken into account in determining whether they have sufficient working time to qualify for overtime; and

- (iii) that any deduction from wages of more than 20% to recover an overpayment of agricultural sick pay be permitted only in respect of any final payment of wages to the worker on termination of employment.
- 8. The Board also agreed the following recommendations from the Working Party:
- (i) that the Agricultural Wages Order be presented in the style of a statutory instrument; and
- (ii) that a Guide to the Order be published in tandem with the Order.

2010 Wage Review

- 9. In May 2010 the Workers' Side gave notice of their claim for a 6% pay increase across all grades.
- 10. In May 2010 the Employers' Side responded. They proposed an increase of 2.0% for Grade 1 and an increase of 1.5% for all other grades. They also proposed that the provisions of the Order be amended to include a variation in the basic hours worked on a given day from between 8 to a maximum of 10 hours, with no more than 39 hours to be worked in a week before overtime became applicable.
- 11. A package of statistical information, prepared by the Department for Environment, Food and Rural Affairs had been circulated to Board Members in April.
- 12. Copies of the Workers' Side Claim and the Employers' Side Response were circulated to Board Members in May.

The Negotiations

- 13. The Board met on 14 and 15 June for the annual negotiations. Before asking the two Sides to present their respective cases, Members were informed that the new qualifications had been mapped and an updated list would be included in the Order together with the current Appendices. In addition Members heard that both Sides had agreed to omit specific reference to the Student Worker Education Programme from the Order.
- 14. The Workers' Side then proceeded to set out the details of their claim. They began by remarking that they possessed compelling statistics which underpinned the claim. In the current economic climate they believed that the claim for a 6% increase was fully justified. There were three reasons for that. Firstly, the ability of the industry to pay; secondly, the role which subsidy played in the industry; and thirdly, the costs faced by workers. They noted that the RPI, unlike the CPI, included housing costs. There were also hidden costs, for instance oil had increased by 35%, clothing by 6%, and council tax by 7%. National insurance was due to increase and there was a possibility of an increase in VAT. As far as the industry was concerned its medium and long term performance was good. They noted the opening offer by the Employers' Side and remarked that it was derisory. At the very minimum it should have been at least 2.2%. The Scottish Agricultural Wages Board had settled for 2.8%. The agricultural sector had weathered the recession much better than other sectors of the economy and that was due mainly to the efforts of a dedicated workforce. Hence they believed that their claim was a fair and reasonable one.
- 15. Turning to the economic arguments the Workers' Side noted that the outlook for the industry was noticeably better than for other sectors of the economy. Prices had increased by 14% and labour accounted for 17.7% of costs. However, Total Income From Farming (TIFF) tended to obscure the reality of the agricultural industry. Workers' remuneration was historically low and farming was a notoriously low paid sector. The National Minimum Wage was due to increase by 2.4% in October 2010. Members heard that rural poverty had increased by 70% and that workers were likely to face increased costs of up to 20%, thus further eroding their income. Such costs were likely to be a rise in the rate of VAT and National Insurance as well as a possible loss of child benefit. It was for those reasons, among others, that they were seeking a substantial increase in remuneration.
- 16. The Employers' Side responded by remarking that there was a compelling case regarding the conditions in the farming sector and also the conditions as they saw it for agricultural employees working in England and Wales. However, it was important that wages remained competitive and that was at the heart of the approach of the employers. In their view the market should set the rates. The role of the Board was to set minimum rates. However, ability to pay was not the basis for salary evaluation, but it was a prerequisite to be able to pay at all. In the view of the employers, diversification was not relevant to the setting of wage rates. Nor did agricultural wages drive rural wage rates. In determining the outlook for 2012 the Employers' Side preferred to use the CPI and the Bank of England's Quarterly Review.

- 17. Although farm incomes had improved the industry had still not returned to the levels of the 1980s. During the previous year there had been a fall in self-sufficiency and a decline in productivity. The Low Pay Commission had considered that the outlook for agriculture in the short term to be gloomy. The biggest factor influencing agriculture was exchange rates. It was possible for the exchange rates to reduce the Single Farm Payment Scheme by as much as £290m. They concluded their presentation by observing that the offer was framed by the desire to maintain stable opportunities, the need to be competitive, and concerns about the long term loss of competitiveness and productivity.
- 18. They then proceeded to set out their response to the Workers' Side claim. They noted that wage increases tended to be passed on to the consumer. Horticulture, in particular, had relatively high labour costs. They were prepared to make an offer of 1.5% which was equivalent to £6.50 per hour for a Grade 2 worker. For Grade 1 they were prepared to offer £5.93. With regard to apprentice rates they were prepared to offer £3.57 for all apprentices in the first year of an apprenticeship. In the second year of an apprenticeship they were proposing £3.64 for 16-17 year olds, £4.92 for 18-20 year olds, and £5.93 for those aged 21 and over.
- 19. Turning to the other substantive item in their submission, namely the flexible working day, they explained that it had come about as a result of the decision to remove the flexible worker category from the Order. What they were proposing was a variant of the flexible worker category. It would not apply universally but would be a variation of contract. The background was that after the decision to remove the flexible worker category had been taken they had been informed that one particular firm wished to operate according to the criteria applying to flexible workers. Since the category had been removed this was no longer the case. Accordingly the proposal was aimed at addressing that.
- 20. The Defra statisticians confirmed that the offer made by the Employers' Side came to an estimated £30m addition to the annual labour costs of the industry. They also confirmed that the average basic weekly wage was £296, and the average annual salary was £21,000.
- 21. The meeting was then adjourned to allow the two Sides to discuss the respective proposals either separately or bilaterally.
- 22. On the resumption of the negotiations the Employers' Side confirmed that they had no new proposals to make as both Sides were still quite far apart. Neither had there been any movement with regard to the flexible working day. The Workers' Side remarked that while they still had a number of concerns, they conceded that there might be a possible advantage with the flexible working day proposal. However, that could only be achieved if the eventual settlement was not less than the RPI.
- 23. The meeting then adjourned to enable the two Sides to consider their respective positions.
- 24. On the resumption of the meeting the Workers' Side indicated that they had come to an agreement on the flexible working day. After some discussion both Sides had agreed that the best method of resolving the problem was to retain the flexible worker category. All that would be needed, therefore, would be to remove the sub-section relating to transitional provisions from the draft Order. The Employers' Side concurred, adding that the current Order contained everything that was needed. The legal adviser asked if the two Sides were now clear that they wished the flexible worker category to be restored to the Order, for if so, that would mean that a short sub-section would need to be drafted clarifying the position.
- 25. The Workers' Side then proceeded to set out revised proposals. They had presented the arguments for a substantial pay increase and were trying to close the gap between themselves and the Employers' Side. They were prepared to move their position to 5.1% which would result in a Grade 2 rate of £6.73. They emphasized that in so doing they were disregarding other factors which would have an impact on agricultural workers, e.g. increased VAT and National Insurance Contributions.
- 26. The Defra statisticians confirmed that the additional labour costs of the revised claim (including premiums) was an estimated £96m per year. Excluding premiums the estimated cost was £76m.
- 27. The Employers' Side then put forward their revised proposals. They informed Members that they had discussed the claim and offer in bilateral meetings. However, the industry was not able to absorb high costs and while they acknowledged that housing was a significant cost for very many workers, a claim based on the RPI was unsustainable. They were, though, prepared to make an offer of 2% for Grades 2-6 as follows:

- Grade 1 £5.93
 Grade 2 £6.53
 Grade 3 £7.18
 Grade 4 £7.71
 Grade 5 £8.16
 Grade 6 £8.82
- 28. The Defra statisticians confirmed that the cost of the revised offer (including premiums) was £39m. Excluding premiums the cost was £31m.
- 29. The meeting then adjourned in order for each Side to reflect on the other's proposal.
- 30. On the resumption of the meeting the Workers' Side noted that a large gap still remained between the two Sides. However, in a spirit of co-operation they had moved their position yet further and were prepared to make a revised claim of 3.9%. That was considerably less than the rate of inflation and would be equivalent to £6.65 for a Grade 2 worker.
- 31. The Defra statisticians confirmed that the cost of the revised claim (including premiums) was £74m. When premiums were excluded the cost was £58m.
- 32. The Employers' Side then put forward a revised offer as follows:
 - Grade 1 £5.93
 - Grade 2 £6.55
 - Grade 3 £7.21
 - Grade 4 £7.73
 - Grade 5 £8.19
 - Grade 6 £8.84

That was equivalent to an increase of 2.3% for Grades 2-6.

- 33. The Defra statisticians confirmed that the cost of the revised offer (including premiums) was £44m. When premiums were excluded the cost was £34m.
- 34. The Workers' Side then asked for an adjournment in order to consider the revised offer.
- 35. On the resumption of the meeting the Workers' Side began by remarking that the negotiations had been extremely difficult. They had started with a claim of 6%, reduced it to 3.9% and they were now prepared to make a final claim of 2.8% for Grades 2-6. The rates proposed were as follows:
 - Grade 2 £6.58
 - Grade 3 £7.24
 - Grade 4 £7.76
 - Grade 5 £8.23
 - Grade 6 £8.88

They added that the proposal represented a real cut in pay for agricultural workers. As far as the Grade 1 rate was concerned they had discussed it and acknowledged that it tended to be treated differently to other minimum rates. However, in Scotland it was set at £5.96 and therefore they were proposing that the Grade 1 rate be set at £5.95.

36. The Employers' Side responded. They had discussed the rates for the various grades and were prepared to make an offer of 2.8% for Grades 2-6 and £5.94 for Grade 1.

- 37. The Defra statisticians confirmed that the cost of the Employers' Side offer (including premiums) was £52m. Excluding premiums the cost was £41m. They added that the difference between the two offers was £100k.
- 38. The proposal by the Workers' Side was then put to the vote and carried by 12 votes to eight.

Changes to the Agricultural Wages Order

- 39. The Board also agreed that the following changes to the 2010 Order should be issued as proposals for consultation in addition to those mentioned in paragraph 7 above:
- (i) that a designated Grade 3 team leader who had obtained a certificate in respect of deemed non-accredited competences might only use the first such certificate, regardless of the number of those certificates held;
- (ii) that the condition relating to other accommodation charges that a worker must have worked for 15 hours per week or have been on annual leave would be widened so as to include all types of paid leave under the Order;
- (iii) that Standby Duty would be re-named "on call" and re-defined and that the Standby Duty allowance would be re-named "on-call allowance" and that there would be a new formula for calculating the amount of on-call allowance:
- (iv) that an employer's liability to pay for board and lodging during a worker's approved training would apply only where a worker was required to be away from their usual residence;
- (v) that the provision relating to holiday pay had been substantially re-drafted and an error in the formula for calculating the amount of annual leave under the provisions in sub-section 11.3.2 of the 2009 Order had been corrected;
- (vi) that an overpayment of holiday pay might be recovered by a deduction from a worker's final payment of wages;
- (vii) that where a worker had suffered a bereavement they could not, in relation to that bereavement, have more than the maximum entitlement to be eavement leave under the Order regardless of the number of employments held by that worker; and
- (viii) that agricultural wages sick pay would be re-named agricultural sick pay and an error in the formula for calculating the amount of sick pay under the provisions of sub-section 12.7 of the 2009 Order had been corrected.
- 40. The proposed changes to the 2009 Order were advertised in the farming press and representations were invited.

Confirmation of the proposals

- 41. The Board met again on 23 July 2010 to:
 - consider the representations which had been received;
 - decide whether to confirm the proposals; and
 - agree the text of the 2010 Order.
- 42. Before turning to the main business of the meeting the Chairman of the Board informed Members present that he had received a telephone call the previous day from the Minister of State alerting him to the fact that an announcement concerning the intention of the Government to abolish the Board and related bodies was imminent. Abolition would take place by means of the Public Bodies Bill which was due to be introduced in Parliament in the autumn. Royal Assent was expected by the summer of 2011.
- 43. The Workers' Side expressed disappointment both at the decision and the manner in which it had been made. They had been informed of the decision only after the announcement had been made. In their view it was a retrograde one. They noted that the Board was due to make an Order that day and queried what would happen to the enforcement responsibilities once abolition had taken place. If there was no enforcement mechanism then it was difficult to see how the Order could have any force in law.

- 44. The Employers' Side agreed that the issue would be how the process of abolition was managed. They, too, were unsure of the precise mechanism that would be needed.
- 45. The Legal Adviser observed that the position for agricultural workers was that the minimum wage for them was the minimum wage specified in the Order (the agricultural minimum wage) rather than automatically being the national minimum wage. The minimum wage for agricultural workers could not be set by the Board at less than the applicable National Minimum Wage Act rates.
- 46. The Workers' Side remarked that the Act abolishing the Board would probably enter into force after the 2011 pay round. They suggested that the Board should continue to have annual negotiations as long as it remained in existence. To do otherwise would risk not setting a wage in 2011 should the legislation fail.
- 47. The Chairman observed that there were a good many questions which remained to be answered and which were of concern to all Members of the Board. He suggested that the Board write to the Minister asking for answers to the questions raised. It was also suggested that a letter be sent to the Rural Affairs Minister in the Welsh Government asking for its views on the proposal.
- 48. The Board then proceeded to consider the representations received from members of the public in response to the consultation.
- 49. A total of eight representations had been received in response to the Board's proposal for a new Order. There were seven objections and one letter in support. Three letters from employers objected that the proposed increases in wages were too high. Four letters from workers objected to the proposals because they believed the increases were too low.
- 50. The Workers' Side remarked that they thought the seven responses objecting to the proposals balanced themselves out. In their view the outcome of the negotiations marked a remarkable level of consensus between the two Sides in terms of the 2.8% increase for Grades 2-6. The only disagreement was over the extra penny an hour on Grade 1.
- 51. The Employers' Side agreed that apart from the variation in Grade 1 the two Sides had agreed on the rate, adding that the increase was broadly in line with other pay increases. However, it was noted that the horticultural sector was finding things far from easy, mainly due to the vagaries of the weather. Although there was general acceptance of the rate employers were still finding it difficult.
- 52. The Board then voted by 9 votes to 5 to confirm the proposals.
- 53. The Board next examined the draft Order and agreed a number of minor amendments. The Order was then agreed *nem.con*.
- 54. The Board agreed to publish a Guide to the Agricultural Wages Order 2010.
- 55. The new Order, the Agricultural Wages Order 2010, took effect from 1 October 2010.

December Meeting of the Board

56. The Board met again on 10 December 2010 to discuss the progress of the Public Bodies Bill and the response from the Minister to the questions raised by the Board at the Confirmation Meeting. Members were informed that the Public Bodies Bill had received its Second Reading and was currently in Committee Stage. An amendment to remove the AWB from Schedule 1 of the Bill had recently been debated but not voted on and would come back to the House at Report Stage. It was expected that the Bill would complete its passage through both Houses and receive Royal Assent by summer 2011. It was however, only an enabling Bill and further legislation would need to be approved by both Houses of Parliament before the Board could be abolished. The expected date of abolition was 1 October 2012. In the circumstances the Minister hoped that the Board would take a pragmatic view and not proceed with an Order for 2011.

- 57. Once the Board was abolished the Agricultural Wages Order would cease to have effect. Agricultural Workers would then fall under the aegis of the National Minimum Wage regime and the Working Time Regulations. Currently they were not covered by this legislation. Hence legislative changes would need to be made in order to ensure that they were.
- 58. Concern was expressed by the Workers' Side about the method of consultation carried out by the Welsh Government. They understood that not all key stakeholders had been consulted. Nor had the Farmers' Union of Wales, which supported retention of the Board, been consulted.
- 59. It was also observed that not all members of the National Farmers' Union were in favour of abolition. A number of the NFU representatives on the Agricultural Wages Committees favoured retention of the Board as did the Institute of Agricultural Secretaries. Small farmers, in particular, looked to the Order as a guide to their obligations under employment law.
- 60. The Board then turned to consideration of whether or not to hold negotiations in 2011. It noted that there had been wage negotiations every year since its inception in 1948. The Employers' Side stated that if the Board chose to hold negotiations then they would take part. The Workers' Side remarked that while there was no obligation on the Board to make an Order annually, it had generally done so. They added that given the increases in the cost of living average wages in agriculture had fallen by 8.5% and the Board would be guilty of dereliction of duty if it chose not to hold negotiations. The Independent Members concurred with that view.
- 61. Accordingly the Board agreed to hold a further round of negotiations in 2011.

Agricultural Wages Board Working Parties set up in 2010

- 62. The Board agreed to re-establish the Qualifications Working Party which would remain in existence until the conclusion of the 2011 Wage Negotiations.
- 63. The Simplification Working Party met twice in 2010.
- 64. The Qualifications Working Party held one meeting in 2010.

Code of Best Practice and Code of Practice on Access to Information

65. The Code of Best Practice, Code on Access to Information and Publication Scheme continued in force in 2010. In accordance with the Code of Best Practice the Secretariat holds a register of all Independent Board Members' relevant interests. Copies of the register can be obtained from the AWB Secretariat at Area 8E, 9 Millbank, c/o 17, Smith Square, London, SW1P 3JR.

Legal Adviser

66. Cumberland Ellis LLP acted as Legal Adviser to the Board throughout 2010.

Membership

67. Full details of the Board's membership for the year are at Appendix I. Further information on the Independent Membership of the Board can also be found on the Internet on www.defra.gov.uk.

Minimum Rates in 2010

- 68. Details of the minimum rates fixed by the Board which applied in 2010 are at Appendix II.
- 69. The list of Orders issued by the Board during the year is at Appendix III.

Board Expenditure April 2009 to March 2010

70. The Board incurred expenditure in the 2009/10 financial year for meeting costs, provision of legal advice, advertising expenses etc. of £187,572.82. The printing and distribution of the Order cost £24,601.60. Staff costs for the financial year were estimated to be £21,993. This gives overall expenditure of approximately £234,167.42.

PART II

ENFORCEMENT OF THE AGRICULTURAL WAGES ORDER: 1 OCTOBER 2010 TO 31 MARCH 2011

- 71. Since 1 April 1999 the National Minimum Wage enforcement procedures have been applied to the Agricultural Minimum Wage. From 18 May 2009 the Pay and Work Rights Helpline became the primary stage for those members of the public who had a query about the provisions of the Wages Order. The Agricultural Wages Team (AWT) which operates from Defra's office at Crewe remained responsible for dealing with queries about the Wages Order referred to it by the Helpline and for handling complaints. It also retained responsibility for handling enquiries and complaints from employers and workers in Wales.
- 72. When a complaint is received and it appears that the worker has been underpaid, AWT staff attempt to resolve matters by writing to, or in some cases telephoning, the employer and explaining the requirements of the legislation. The aim is to persuade the employer to pay the worker at the correct rate and to pay arrears. If the employer agrees to put matters right by a specific date and the AWT receives confirmation from the worker that this has been done and that he or she is content, the case is closed. If the employer refuses to co-operate or fails to pay the money, the case is passed to an Agricultural Wages Inspector (AWI) to investigate.
- 73. A visit from an AWI may be sufficient to prompt the employer to put matters right. Where this fails, an Enforcement Notice may be served. A schedule of arrears attached to the Notice shows the sum due to the worker for the hours worked, holiday taken etc. in each pay reference period and sets this against the sum received. The arrears due in each pay reference period are calculated and the total sum due is stated in the Enforcement Notice. (Where an Enforcement Notice relates to more than one worker a separate schedule is required for each worker.) An employer may appeal to an Employment Tribunal against an Enforcement Notice. Provided the Notice is upheld, the employer is required to pay the arrears due and if he or she fails to do so a Penalty Notice may be served.
- 74. The following table gives the number of calls and complaints received from 1 April 2010 to 31 March 2011 and information about cases closed and enforcement action taken. Figures for the five preceding years are given for comparison. Readers should note that the figures for 2007/2008 and 2008/2009 have been calculated on a different basis from those of the previous years. The period for which the figures are compiled from 2007/2008 onward is from 1 October to 30 September inclusive.

	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011
Calls to Helpline	4780	3217	4965*	1671~	N/A	N/A
Complaints carried forward	59	11	21	169**	177**	181**
Complaint forms received	64	70	235**	32	33	37
Total number of cases open during year	123	81	256	201	237	218
Cases resolved; employer agreed to pay	45	9	31	29	38	35
Arrears recovered where employer agreed to pay	£93,248	£11,025	£85,614	£98,714.49	£109,302.96	£42,468.22
Cases passed to AWIs	17	44	10	6	8	2
Enforcement Notices issued	10	8	4	4	3	1
Cases resulting in debt recovery action	3	3	1	0	0	0
Employment Tribunal Appeals	3	3	2	4	3	1
Employment Tribunal hearings	3	0	1	0	3***	0
Enforcement Notice upheld	3	0	0	0	0	0
Value of arrears in cases where Enforcement Notice has been served	£69,711	£93,295.57	£94,822.36	£6.987.39	£125,000	0
Cases closed because: insufficient information; no underpayment; complaint withdrawn; worker and employer resolved problems while case was on hold.	20	4	8	8	14	6
Complaints open at 31 March	41	75	33	179**	181**	175**

^{*} These figures do not include queries made to the Agriwages mailbox which average out at approximately 20+ per week.

^{**} Includes 155 complaints against one employer.

^{***} Cases settled at the Tribunal Hearing without going through formal process.

[~] Helpline transferred to the Pay and Work Rights Helpline with effect from 18 May 2009.

REPORT OF THE PROCEEDINGS UNDER THE AGRICULTURAL WAGES ACT 1948

FOR THE PERIOD 1 JANUARY TO 31 DECEMBER 2010

PART III AGRICULTURAL WAGES COMMITTEES (AWCS)

- 75. In 2009 there were 15 AWCs in England and none in Wales. The AWCs for Wales were abolished and a single Committee was formed to cover the entire Principality. No members had been appointed by the end of the year. The groups of Counties and former Counties served by each Committee in England were based substantially on the former Regional Service Centre boundaries of the Ministry of Agriculture, Fisheries and Food. The Committees are constituted under Section 2 of the Agricultural Wages Act 1948. Section 5 of the Act, which empowered them to grant permits of exemption to incapacitated workers, was repealed on 1 October 2004 because it was not compatible with EU legislation which required equal treatment in employment for people with disabilities. Sections 6 and 7 of the 1948 Act empower Committees to issue certificates regarding premium arrangements between employer and learner or apprentice and to revalue farmworkers' houses. Also, under Section 46 of the Agriculture (Miscellaneous Provisions) Act 1968, AWCs have powers to issue craft certificates (but since July 2003 there have been no provisions in the Wages Order which require the Committees to use this power). As required by Section 13 of the Agricultural Wages Act 1948, Annual Reports are prepared by each Committee. Under Section 29 of the Rent (Agriculture) Act 1976 AWC Chairs are responsible for appointing Agricultural Dwelling House Advisory Committees (ADHACs).
- 76. A list of the Committees in England and Wales and a note on their constitution is given at Appendix IV. Full details of AWC membership is at Appendix V. More information about Independent Membership of AWCs can be found on the Internet on www.defra.gov.uk. In accordance with the recommendation of the Nolan Committee the Secretary of each AWC holds a register of all Independent Committee Members' relevant interests. Copies of the register can be obtained from the appropriate secretary.

Review of Activities

Premium Arrangements for Learners

77. Apprentices or learners may be charged for tuition by their employer only if the AWC, in whose area they are employed, has issued a certificate of approval. No applications have been made under these arrangements since 1993.

Valuation of Farmworkers' Houses

78. The assumed standard value for a house, provided through the contract of employment as part payment of a farm worker's minimum wage, is fixed by the Agricultural Wages Board. However, if an employer or worker considers that this amount does not represent the true value in a particular case either party can apply to the local Agricultural Wages Committee for a higher or lower figure to be fixed. Since 1995 there have been just seven applications all of which were made in 1997.

Report on performance standards achieved in England by Defra's Rural Development Service and in Wales by Divisional Offices in relation to Agricultural Wages Committees from 1 April 2010 to 31 March 2011.

- 79. During the 12 months ending on 31 March 2011 Defra's Rural Development Service:
- (a) arranged 15 AWC meetings and dealt with 76 expenses claims; and
- (b) prepared and submitted 15 AWC statutory Annual Reports to the Regional Director, on average within four weeks of the end of the calendar year.

No appointments were made.

80. As a result of the abolition of the former AWCs in Wales and their replacement by a Committee covering the entire Principality no meetings were held and no appointments were made.

REPORT OF THE PROCEEDINGS UNDER THE AGRICULTURAL WAGES ACT 1948 FOR THE PERIOD 1 JANUARY TO 31 DECEMBER 2010

PART IV AGRICULTURAL DWELLING HOUSE ADVISORY COMMITTEES (ADHACS)

- 81. The Rent (Agriculture) Act 1976 and the Housing Act 1988 give certain agricultural workers (including retired workers and successors) living in farm cottages, security of tenure. However, under these Acts a farmer may apply to the local housing authority to have the protected worker re-housed if he/she needs the cottage for another worker in the interests of efficient agriculture. To assist the housing authority in considering the farmer's application the 1976 Act provides for an ADHAC to give advice on the case made by the applicant concerning the interests of efficient agriculture and regarding the urgency of the application. Section 29 of the Rent (Agriculture) Act 1976 makes provision for the establishment of ADHACs within the area of each Agricultural Wages Committee. The areas of each AWC are detailed at Appendix IV.
- 82. Each ADHAC comprises an independent member, who is the Chair, one member representing agricultural employers and one member representing agricultural workers. Details of ADHAC membership are at Appendix VI. In accordance with the recommendations of the Nolan Committee the Secretary of each ADHAC holds a register of all Independent Committee Members' relevant interests. Copies of the register can be obtained from the appropriate Secretary.

83. Details of ADHAC cases in 2010 are as follows:

	England	Wales
Applications carried forward from previous year	0	0
New applications received	11	0
Applications withdrawn or invalid	2	0
Cases in which ADHAC concluded a need	9	0
Those where ADHAC concluded need was immediate	5	0
Cases in which ADHAC concluded no need	0	0
Complaints about ADHAC performance	0	0
Cases carried forward to the next year	0	0

Report on performance standards achieved in England and Wales in relation to Agricultural Dwelling House Advisory Committees from 1 January to 31 December 2010

- 84. During the 12 months ending 31 December 2010, the Rural Development Service in England arranged 11 ADHAC meetings and dealt with 44 expenses claim forms.
- 85. No requests for an ADHAC were received by Divisional Offices in Wales.

APPENDIX I

CONSTITUTION OF THE AGRICULTURAL WAGES BOARD 2010

Chairman

Mr Derek Evans CBE

Appointed Members (Independent Members)

Prof. J Ditch

Ms C Elliott

Mr J Magee

Dr L Walford

Representatives of Employers

Mr R J Fiddaman MBE (Leader of Employers' Side)

Mr C Bourns

Mr J Grant

Mr T Hind

Mr D Jarman

Mr R Pascal

Mr J Potter

Mr M Raymond MBE

Representatives of Workers

Mr I Waddell (Leader of Workers' Side) (from 23 April 2010)

Mr M Belsey

Dr R Graham (from 23 April 2010)

Mr S Leniec

Mrs T Mackay

Mr I Monckton

Mr R Neville (from 14 June 2010)

Ms K Powell (to 13 June 2010)

Mr D Weeks

Secretary to the Board

Mr D McInerney

Legal Adviser to the Board

Cumberland Ellis LLP

APPENDIX II

AGRICULTURAL WAGES BOARD

MINIMUM WEEKLY RATES OF PAY IN FORCE IN 2010 FOR WORKERS WORKING STANDARD WEEKLY HOURS

1 January to 30 September 2010					
Grade 6	Grade 5	Grade 4	Grade 3	Grade 2	Grade 1
£	£	£	£	£	£
336.96	312.00	294.45	274.56	249.60	226.59

1 October to 31 December 2010						
Grade 6	Grade 5	Grade 4	Grade 3	Grade 2	Grade 1	
£	£	£	£	£	£	
346.32	320.97	302.64	282.36	256.62	232.05	

Higher rates apply to Full Time and Part Time Flexible Workers.

APPENDIX III

ORDERS MADE BY THE AGRICULTURAL WAGES BOARD DURING 2010

Date of Order Title of Order

23 July 2010 The Agricultural Wages (England and Wales) Order 2010

Operational Date

1 October 2010

Effect of principal changes

The Grade 1 pay rate for workers over compulsory school age was increased by 2.4% from £5.81 to £5.95 per hour. The pay rates for Grades 2-6 rose by 2.8% taking the rate for a Grade 2 Standard Worker from £6.40 to £6.58 per hour.

The minimum hourly rate for Apprentices in their first year was set at £3.57. In the second year of an Apprenticeship the rate increased from £3.57 to £3.64 per hour for 16-18 year olds, from £4.83 to £4.92 per hour for 19-21 year olds and from £5.80 to £5.95 per hour for those aged 21 and over.

The "Other Accommodation" offset was increased to £4.61 per day.

The night work rate was increased to £1.29 per hour.

The dog allowance was increased to £7.21 a week per dog.

New entrants were allowed into the Flexible Worker Category from 1 October 2010.

A designated Grade 3 team leader who had obtained a certificate in respect of deemed non-accredited competences could only use the first such certificate, regardless of the number of those certificates held.

The condition relating to other accommodation charges that a worker must have worked for 15 hours per week or have been on annual leave was widened so as to include all types of paid leave under the Order.

Standby Duty was re-named "on-call" and re-defined and the Standby Duty allowance was re-named "on-call allowance" and there is now a new formula for calculating the amount of the on-call allowance.

All time which an apprentice spends attending training required as part of their apprenticeship arrangements would in future be taken into account in determining whether they have sufficient working time to qualify for overtime.

An employer's liability to pay for board and lodging during a worker's approved training will apply only where the worker is required to be away from their usual residence.

An error in the formula for calculating the amount of annual leave under the provisions in sub-section 11.3.2 of the 2009 Wages Order was corrected.

An overpayment of holiday pay may be recovered by a deduction from a worker's final payment of wages.

A worker cannot have more than one entitlement to be reavement leave in respect of any one be reavement under the Order, regardless of the number of employments held by that worker.

Agricultural wages sick pay has been re-named agricultural sick pay and an error in the formula for calculating the amount of sick pay under the provisions of sub-section 12.7 of the 2009 Wages Order has been corrected.

Any deduction from wages of more than 20% to recover an overpayment of agricultural sick pay will be permitted only in respect of the final payment of wages to the worker.

Other technical and consequential drafting amendments have also been made.

APPENDIX IV

AGRICULTURAL WAGES COMMITTEES IN 2010

Counties and former Counties for which separate Agricultural Wages Committees are established.

England

Humberside Shropshire

Combinations of Counties and former Counties for which Agricultural Wages Committees are established.

England

- 1. Avon, Dorset, Somerset and Wiltshire.
- 2. Bedfordshire, Cambridgeshire, Essex and Hertfordshire.
- 3. Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire.
- 4. Berkshire, Buckinghamshire, Hampshire, Isle of Wight and Oxfordshire.
- 5. Hereford and Worcester, Gloucestershire, Warwickshire and West Midlands.
- 6. Devon, Cornwall and the Isles of Scilly.
- 7. Norfolk and Suffolk.
- 8. Kent, Surrey, East Sussex and West Sussex.
- 9. Cheshire and Staffordshire.
- 10. Cleveland, Durham and North Yorkshire.
- 11. Lancashire, Greater Manchester and Merseyside.
- 12. South Yorkshire and West Yorkshire.
- 13. Northumberland, Tyne and Wear and Cumbria.

Constitution

Each AWC should comprise a chairman elected by the AWC, two independent members (appointed by the Secretary of State in England and by the Welsh Government in Wales) and an equal number of members representing employers and workers. Employers' representatives are nominated in England by the National Farmers' Union and in Wales by the NFU and the Farmers' Union of Wales in proportions agreed between them. Workers' representatives are nominated by Unite.

APPENDIX V

CONSTITUTION OF THE AGRICULTURAL WAGES COMMITTEES 2010

AVON, DORSET SOMERSET AND WILTSHIRE

Mr I H C Powell (Chair)

Appointed Members

Vacancy

Representatives of Employers

Mr M J Amos Mrs M Battens Mr J R Cossins Mr C M Foot Mr P N B Harvey Mr P J Wyatt

Representatives of Workers

Mr D Freegard
Mr A Gould
Mr H Kirkbride
Mr R G Lanning
Mr E T Marsh
Mr J F Moulton
Mr T Hall

BEDFORDSHIRE, CAMBRIDGESHIRE, ESSEX AND HERTFORDSHIRE

Canon F Scuffham (Chair)

Appointed Members
Mr R P Bush

Representatives of Employers

Mr C D Broughton Mr P Hammett Mr R Warner-Smith Mr N P Rome

Representatives of Workers

Mr J Barrett Mr I Beeby Mr R Cook Mr P Read Mr R Rejdak Mr B Smith

BERKSHIRE, BUCKINGHAMSHIRE,

HAMPSHIRE, ISLE OF WIGHT AND OXFORDSHIRE

Mr J C Sinkins (Chair) Appointed Members

Vacancy

Representatives of Employers

Mr J Archer
Mr T G Brock
Mr I R Dalton
Mr T R Houghton
Representatives of Workers
Mr G Beer

Mr M Belsey Mr S Harding Mr S Leniec Mr M Pollek

CHESHIRE AND STAFFORDSHIRE

Mr E Orgill (Chair)

Appointed Members

Vacancy

Representatives of Employers

Mr R Dobson Mr J Hooley Mr G R J Lewis Mrs B Smith Mr R Collier Mr M Madders

Representatives of Workers

Mr P Dracup

CUMBRIA, NORTHUMBERLAND AND

TYNE AND WEAR
Mr D Hill (Chair)
Appointed Members
Mr G Astbury
Mr A Humphries MBE

Representatives of Employers

Mr P M Hogg
Mr W G Proud
Mr R Field
Mr R Shaw
Mr T C Whiteford
Representatives of Workers

Mr A McGuckin Mr G Pettit

Mr N Halton

DERBYSHIRE, LEICESTERSHIRE,

LINCOLNSHIRE, NORTHAMPTONSHIRE

AND NOTTINGHAMSHIRE

Mr R W Tinn (Chair)

Appointed Members

Mr A R Wylde, MA

Representatives of Employers

Mr J E Grant Mr G E M Hennell Mr G A Jenkinson Mr P Tame Mr R J Watts

Representatives of Workers Mr J C Allin

Mr G Ayto Mr M Hancock Mr L Humphries Mr P Orme Mr P Whipps Mr M Woollock

DEVON, CORNWALL AND THE ISLES OF SCILLY

Mr I H C Powell (Chair) Appointed Members

Mrs C Kendrick Representatives of Employers

Mr R Angrove Mr F W Clarke Mr M J Grills Mr D Hale Mr M Stanbury

Mr J Whetman

Representatives of Workers

Mr M Bristow Mr D T Jilbert Mr A S Martyn Mr W F C Vanstone Mr S K White

GLOUCESTERSHIRE, HEREFORD AND WORCESTER, WARWICKSHIRE AND WEST MIDLANDS

Mrs E M Milton, MBE (Chair)

Appointed Members

Vacancy

Representatives of Employers

Mr A Cozens Mr M Meredith Mr J Tingey

Representatives of Workers

Mr R Shutt Mr E Rowlands Mr H B Wright

HUMBERSIDE

Mr I D Potter (Chair) Appointed Members Mr F Archenhold Mr D A Howard Representatives of Employers

Mr R H Brown Mr J Waring

Representatives of Workers

Mr M A Hancock Mr P Redgate Mr A Senior Mr J L Tubby

KENT, EAST AND WEST SUSSEX, SURREY

Mr J C Sinkins (Chair) Appointed Members Miss J Dalal Mr I J Whitburn

Representatives of Employers

Mr J Archer Ms F Maidment Mr I Mills Mr J Myatt Mrs M F Regan

Representatives of Workers

Mr N Davidson Mr R Neville Mr P A Shaw Mr D Weeks

LANCASHIRE, GREATER MANCHESTER

AND MERSEYSIDE Mr G B Parker (Chair) Appointed Members Mr A Humphries, MBE Representatives of Employers

Mr J Heves Mr D Neave Mr G B Shepherd Representatives of Workers Mr A Robertson Mr A Haves

NORFOLK AND SUFFOLK

Canon F Scuffham (Chair) Appointed Members

Vacancy

Mr B Nelson

Representatives of Employers

Mr J E Coles Mr B Collen Mr P Hammett Mr M Holmes

Representatives of Workers

Mr K E Bull Mr S Harley Mrs T MacKay Mr B Salmon Mr B Smithson Mr M Ward

NORTH YORKSHIRE, CLEVELAND AND DURHAM

Appointed Members Mr I D Potter Representatives of Employers Mr R E Dennison Mr E A Hardwick Mr J R Kettlewell Mr J R Littlefair Mr D K Sanderson

Mr D A Howard (Chair)

Representatives of Workers Mr I R Appleyard Mr P Houldsworth Mr J L Tubby Mr P Redgate

SHROPSHIRE

Vacancy

Appointed Members Mrs S E P Fowler

Representatives of Employers

Mr R Collier

Representatives of Workers

Mr I Monckton Mr H B Wright

SOUTH YORKSHIRE AND WEST YORKSHIRE

Dr W Belfield (Chair) Appointed Members Mr A P H Dundas Mr G Astbury Representatives of Employers

Mr R Farnsworth Mr P Kershaw

Representatives of Workers

Mr M A Hancock Mr P Houldsworth Mr P Redgate Mr R Cannon

APPENDIX VI

CONSTITUTION OF AGRICULTURAL DWELLING HOUSE ADVISORY COMMITTEES 2010

AVON, DORSET, SOMERSET AND WILTSHIRE

Appointed Members

Mr W J Dvke

Representatives of Employers

Mr M J Amos Mr S J Banfield Mr A L Bartlett Mr R Bowditch Mr M K Brake Mr H E J Bryant Mr G M Butler Mr J R Cossins Mr G Donaldson

Mr C Foot Mr A E H Gardener Mr P W Hunt

Mr C Wills

Representatives of Workers

Mr E Amey Mr D Freegard Mr T Hall Mr H Kirkbright Mr E T Marsh Mr O J Trevett Mr S K White Mr K Wilkins

BEDFORDSHIRE, CAMBRIDGESHIRE, ESSEX

AND HERTFORDSHIRE

Appointed Members Mr A E Alport

Mrs C M Payne Representatives of Employers

Mr PA Evans Mr C E Menhinick Representatives of Workers

Mr J Barrett Mr I Beeby Mr R Murden Mr P Read Mr R Rejdak Mr K Sheath Mr B Smith

BERKSHIRE, BUCKINGHAMSHIRE,

HAMPSHIRE, ISLE OF WIGHT AND OXFORDSHIRE Appointed Members

Dr D C Azubike Representatives of Employers Mr J J Atrill

Mr T G Brock Mr D M H Brown Mr D J Greasby Mr T R Houghton Mr G M Maclean Mr R L Orlik Mr R Uglow

Representatives of Workers

Mr G Beer Mr M Belsey Mr P W J Cozens Mr J Cull Mr J Gardner Mr G Goble

Mr S F Harding Mr S Leniec

Mr T Timms

CHESHIRE Appointed Members Mr E Orgill

Representatives of Employers

Mr J Ball Mr R Dobson Mrs B Smith Mr P D Thomas Mr S R Wharfe

Representatives of Workers

Mr P Dracup

CUMBRIA, NORTHUMBERLAND, TYNE AND WEAR

Appointed Members Mr G Astbury Mr A Humphries MBE Representatives of Employers

Mr P M Hogg Mr W G Proud Mr T C Whiteford Representatives of Workers

Mr A McGuckin Mr J G Short Mr G Pettit Mr N Halton

DERBYSHIRE, LEICESTERSHIRE,

LINCOLNSHIRE, NORTHAMPTONSHIRE AND

NOTTINGHAMSHIRE Appointed Members

Vacancy

Representatives of Employers

Mr M Atkinson Mr R Bailey Mr J T Bunting Mr R B R Burtt Mr S Enderby Mr M Foot Mr I E Grant Mr G E M Hennell Mr G Ingham Mr G A Jenkinson Mr J A Slack Mr B Sutton Mr A Richards Mr S A R Markillie Mr S A R Murch Mr T E Reading Mr J F C Taylor

Mr R J Watts Mr N R Wild Mr F Wright

Representatives of Workers

Mr J C Allin Mr M Doherty Mr M Hancock Mr I Orton Mr P Whipps

Mr J Ward

DEVON, CORNWALL AND THE ISLES OF SCILLY

Appointed Members Mr I M Arrow Mr P E Sanders

Representatives of Employers

Mr W J Bailey
Mr J F Blewett
Mr F W Clarke
Mr C R Gaden
Mr R H T Moore
Mr W E R Philip
Mr G T Smith
Mr S H Wallis

Representatives of Workers

Mr M Bristow Mr A H F Fooks Mr A S Martyn Mr P Starkey Mr W F C Vanstone Mr S K White

HEREFORD AND WORCESTER, GLOUCESTERSHIRE, WARWICKSHIRE AND WEST MIDLANDS

Appointed Members
Mr A G Corless

Representatives of Employers

Mr T Bradeley
Mr R Colwill
Mr A Cozens
Mr T Heritage
Mr M Meredith
Mr B Sutton
Mr J Tingey

Representatives of Workers

Mr S Preddy Mr E Rowlands Mr H B Wright

HUMBERSIDE

Appointed Members Mr F Archenbold Mr D A Howard

Representatives of Employers

Mr R H Brown Mr J Waring

Representatives of Workers

Mr M A Hancock Mr P Redgate Mr A Senior Mr J L Tubby

KENT, SURREY, EAST SUSSEX AND WEST SUSSEX

Appointed Members
Mrs M A Beeny
Mr A D Hart
Mr D L Ridout

Representatives of Employers

Mr A Barr Mr G W Butler Mr H Cornwell Mr P Eastwood Mr P Forknall Mr M F French Mr G E Lee-Steer

Representatives of Workers

Mr N Davidson Mr B Moss Mr D Weeks

LANCASHIRE, GREATER MANCHESTER, MERSEYSIDE

Appointed Members

Vacancy

Representatives of Employers

Mr P Benson
Mr J N Lucas
Mr D Neave
Mr G B Shepherd
Representatives of Workers
Mr J Hall
Mr T Hayes
Mr A Nelson

NORFOLK AND SUFFOLK

Appointed Members
Ms J I Firrell
Mr M A Harrowven
Representatives of Employers
Mr C J Brown

Mr A Fairs
Mr N Guyer
Mr M Holmes
Mr J R M Wayman
Representatives of Workers

Mr K E Bull Mrs M E Holmes Mrs T Mackay Mr P Medhurst Mr B Salmon Mr B Smithson Mr M Ward

NORTH YORKSHIRE, CLEVELAND & DURHAM

Appointed Members

Vacancy

Representatives of Employers

Mr R E Dennison Mr E A Hardwick Mr C Hedley Mr J R Kettlewell Mr D K Sanderson Mr J R Littlefair Representatives of Workers Mr P Houldsworth

Mr P Houldsworth Mr P Redgate

Mr J L Tubby

SHROPSHIRE

Appointed Members
Mrs S Fowler

Representatives of Employers

Mr S Y Brown
Mr D W Burton
Mr J E Cooke
Mr J Croxton
Mr J W Evans
Mr R Eyres
Mr M Goodwin
Mr J Wild

Representatives of Workers

Mr I Monckton Mr H B Wright

STAFFORDSHIRE

Appointed Members

Vacancy

Representatives of Employers
Mr T J Bailey
Mr T S Furnival

M R F Hartley Mr A L Needham

Mr K Unwin

Mr M Wain

Representatives of Workers

Mr C Elsmore

SOUTH AND WEST YORKSHIRE

Appointed Members

Vacancy

Representatives of Employers Mr R Farnsworth

Mr T Gitsham

Mr J L Senior

Mr P Smith

Representatives of Workers

Mr M Hancock

Mr P Houldsworth

Mr P Redgate



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