



**Unite Wales response to the National  
Assembly for Wales Environment and  
Sustainability Committee inquiry into the  
Agricultural Wages Board (AWB)  
January 2013**



***The Committee is interested in seeking views on the future of the Agricultural Wages Board, or similar structure, in Wales. In particular, the Committee is interested to identify any opportunities to improve employment in the agricultural sector that could be developed should alternative arrangements be made for Wales.***

### **Introduction**

Unite is one of the largest unions in Wales with around 100,000 members across the private and public sectors. The union's members work in a range of sectors including agriculture, financial services, construction, local government, health, voluntary not for profit, manufacturing and food manufacturing and processing.

Unite is the union representing agricultural workers in Wales and across the UK and Republic of Ireland. This makes it a major stakeholder in all decisions around the future of the Agricultural Wages Board (AWB) for England and Wales.

### **Overview**

Since its inception in 1906 the trade union representing agricultural workers has set out to win decent pay and conditions for farm workers. It has continually fought for an industry with modern employment practices, safe workplaces, and a sustainable future. As part of Unite and our predecessor unions, farm workers' representatives have campaigned and negotiated for an industry-wide safety reps scheme, and pay and grading that rewards skills and training and will attract new entrants. The union has sought for agriculture to reflect the best employment practices of the public and private sector – a long-standing goal has been an industry-wide pension scheme – rather than the worst.

Unite believes that the AWB sets a foundation in good practice in industrial relations including: the removal of discriminatory age wage rates and enhanced holiday entitlements above the statutory minimum; the unique nature of work conducted by those in the sector; the notoriously high fatality and injury rates in agriculture and a clear skills route and training.

The argument for abolition has focussed on the difference between the National Minimum Wage and the rate for Grade 1 (2p more and hour). This overlooks the fact that only 20 per cent of the agricultural workforce currently covered by the AWB in England and Wales is on grade 1. The overwhelming majority are on grades 2-6, a grading structure which would be wiped out by abolition.

In the absence of the protection of the AWB, wages and terms and conditions will be squeezed as farmers pass on price pressure from the supermarkets and food processors to workers. If wages freeze or fall, or if terms and conditions are attacked the recruitment crisis and industrial relations in agriculture will worsen. The AWB means that farmers' representatives negotiate terms and conditions every year with unions which results in workers receiving reasonable pay, protection and career progression. Abolition would mean farmers having to deal direct with their employees, the reality of which would be pay cuts for the workers and the burden of staff negotiations on farmers.

Members of the National Assembly for Wales will be aware of the issues of rural poverty in many of our communities in Wales. Poverty in rural areas presents specific and acute problems – housing is often unaffordable, local shops are a long way from distribution centres and competition is limited so prices are habitually higher than the average.

The rural economy is key to the wider Welsh economy and an effective, well functioning AWB has a pivotal role to play within a successful and sustainable agricultural industry that works well now and is able to attract young people to the sector to ensure its survival.

There are many reasons to retain an Agricultural Wages Board, not least as it could ensure a much better deal for young people, better training and conditions on what is a dangerous profession but should alternative arrangements need to be made for Wales in terms of the development of an Agricultural Wages Board, we have an opportunity to create a model of best practice and take forward the effectiveness of the AWB in Wales.

### **Benefits of the Agricultural Wages Board (AWB) to Welsh workers and Wales**

#### **An industry like no other**

Agriculture is unlike any other industry due to its unique and distinct social setting. Workers in retail, construction or the car industry do not go home to a house owned by their employer, unlike 30 per cent of agricultural employees. There is no more 'tightly-knit' community than a small rural community, where a farm worker's employer, employer's spouse or other members of their family may be in positions of social control such as a justice of the peace, a parish councillor, a school governor, all of these and more. In rural areas, workers have a narrower range of jobs and often wholly dependent on their own transport to travel to work.

Previous attempts to abolish the AWB elicited responses from many farmers who expressed great unease at having to take on the role of pay negotiator. Especially for those farmers with one or very few employees, the employment relationship is complex. Relying on these employees year-round, and often living at close proximity, farmers are reluctant to have to lay aside the close daily co-operation and confront the same employees face to face on the issue of pay. For them, collective bargaining through the AWB depersonalises this aspect of employment.

For employees, this situation is heightened of course by their weak negotiating position relative to the 'boss'. Through the workers' side, thousands of farm workers have access to a professional and fully researched pay claim, current data on farm incomes and industry statistics. Individual farm workers will not have access to comparable information on the state of their employer's finances. For 30 per cent of farm workers, this is more acute because their employer is also their landlord. This employment relationship is unique in the UK, and presents a compelling reason to continue with depersonalised negotiations between professional national pay negotiators.

Despite intensive work by unions and others, the 'dash to the bottom' has been the result of the squeeze by the retailers and UK government indifference, with producers hiding behind voluntary codes and pan-industry agreements like the ETI and leaving structural causes unchallenged. As things stand, the AWB is the last line of defence against intensifying precarity. Remove that and we remove another vital protection against exploitation. It is worth noting that Gangmaster legislation will not cover many workers currently directly employed and/or covered by the provisions of the AWB Order.

#### **A rural living wage**

At present the AWB Grade 1 rate is only 2p more than the NMW. To attain the current level of the Living Wage of £7.45 – a campaigning target now adopted by a growing number of local authorities and employers in Wales – farm workers would need to be on Grade 3 and above. The take-up of in-work benefits by those on AWB rates is high, so low pay in agriculture and horticulture is being subsidised through the benefits system.

A rural living wage, enabled in a large part for many by the AWB, is in keeping with the Welsh Government position on the living wage. Unite Wales warmly welcomed the official accreditation of the National Assembly for Wales as a UK Living Wage employer by the Living Wage Foundation in December last year.

Paying people a decent wage above the minimum legal rate is not only socially just, it is economically sound. The more a person earns, the more income they have to spend and in rural communities this is most likely to be spent locally, playing a pivotal part in sustaining local businesses, retailers and the rural economy as a whole.

In addition, better rates of pay, conditions and a clear progression path offer a much more attractive incentive to both recruit and retain people to an industry.

### **Education, training, health (and safety)**

But the AWB Order is not solely about pay and pay rates. Because of the history of abuses in the industry and the isolated nature of the rural workforce, there has been and still is a need to have clear definitions and detailed statutory explanations of working time, training, accommodation, sickness absence, types of worker – precisely because the employment relationship in agriculture is unique, there needs to be an Order that is authoritative and specific.

With the clear grading system, the AWB rates provide a recognised ladder for progression, reward skills and commitment, and recognise the developing contribution of young people of school age and above. It parallels modern systems in the public and private sector, with a range of grades, and acknowledges the reality of agricultural work – e.g. high levels of overtime, the need for paid rest breaks in a physically arduous job.

The 6-grade structure of the AWB Order achieves a key goal – pay that represents a career structure for agriculture, with pay clearly linked to the acquisition of skills and experience. Pay that rewards a commitment to the industry and the gaining of skills is central to this. Removing the existing grade structure will remove any mechanism for rewarding acquired skills and continuing professional development (CPD). AWB rates include age groups excluded from the National Minimum Wage.

The industry needs both younger and older workers to function and to be sustainable. Yet farming is attracting fewer young people than it needs to ensure its future. There are cultural and social pressures on young people deterring them from entering the industry – low pay, the physical nature of the work, the fears of parents that it does not represent a secure future – and to offset these young people need the prospect of decent pay.

Agriculture is the most dangerous occupation in the UK. It employs 1.5 per cent of the workforce yet accounts for 15-20 per cent of fatalities. In 2012 fatalities increased. Given the industry's record on health and safety, it is easy to see why Unite campaigned over many years for the establishment of an industry-wide safety reps scheme in agriculture.

According to the Health and Safety Executive, although the rate of ill health in agriculture is comparable to other industries, gross under-reporting disguises the true rate. Only 25 per cent of accidents to employees are reported. Yet even with this appalling level of under-reporting, agriculture has one of the highest rates of major injuries – higher than the all-industry average and a rate similar to construction.

Agriculture's poor record on accidents includes a high level of major accidents – accidents resulting in more than three days' absence from work. The isolation of farm workers from medical facilities and treatment aggravates the serious hazards they face. These include zoonoses, musculo-skeletal disorders, vibration-related injuries, and respiratory diseases. This is the context for the AWB sick pay scheme in agriculture. It is essential that agricultural workers are supported in recovering from

illness or injury, and do not feel obliged to return to work prematurely because of the financial imperative of loss of wages.

The impact on the NHS in Wales of work related sickness and injury in agricultural occupations cannot be underestimated and it can be assumed that should the protections of the AWB be removed then not only would workers be at higher risk but the burden on the NHS would be greater.

### **Collective bargaining: equitable and economically effective**

The AWB was originally set up to protect an isolated and scattered workforce who had little scope for collective bargaining. Today, one set of annual negotiations and the resultant AWB Order for England and Wales covers 154,000 workers, and is a benchmark for pay and conditions for many thousands more.

Unite views this as a more efficient way of settling pay rates than thousands of farmers and growers negotiating individually with thousands of employees. Collective bargaining takes place in a wide range of industries including construction, retail and financial services with industry agreements on items such as holiday pay, sick pay, overtime etc.

As aforementioned, many rural workers work in isolation and there is a lack of collective cohesion, management structures and procedures which limits the ability to negotiate with individual employers. The collective bargaining process as set out in the AWB also saves costs to employers – both time and money wise – of having to undertake individual negotiations

Abolition of the AWB would take away the right of agricultural workers to free collective bargaining. Unite believes that abolition of the AWB would be in breach of the UK's obligations under international law to promote collective bargaining.

Collective bargaining coverage is instrumental to working people having the strength to improve their living standards, support their families and input into local communities. However, collective bargaining is not only beneficial to those that it directly covers but also has a wider greater good. Research has shown that where there is greater density of collective bargaining there is corresponding lower inequality, a factor that could be crucial to the development of many of our rural communities in Wales. Moreover, there are proven direct links between collective bargaining and wage growth, resulting in a growth in spending power and a consequential boost to the local economy.

Additionally, the standards as set out by the AWB Order are in accordance with internally recognised instruments. The social charter of the Council of Europe Article 2 calls for additional holidays and reduced hours for dangerous and unhealthy occupations. ILO Convention 99 calls for a minimum rate in agriculture with an adequate machinery for creation and enforcement

### **Impact of abolition of the Agricultural Wages Board (AWB) on Welsh workers and Wales**

Abolition of the Agricultural Wages Board will see a return to the conditions that led to the setting up of the first trade union – the lowering of agricultural wages in the 1830s. Set against the claimed potential savings for the UK government of around £50,000 a year, the cost to workers and the rural economy of abolition are at least £235.7 million over the next 10 years, according to DEFRA's own impact assessment. All the 'benefits' of abolition are costs for workers - £131million a year in lost wages; £81million from annual leave; a further £4.4 million in sick pay, and more. If the AWB is abolished workers in agriculture in Wales and England could lose between £150 and £265 a week.

Unite believes that the view of many of those involved with the AWB including employers and independents is that any changes, including 'simplification' should, as they have been for decades, be a matter for negotiation between the parties and not imposed by abolition. The all too short DEFRA consultation presented a binary choice – do nothing or abolish the AWB. Yet members of the AWB from all sides have over many years engaged in a process of negotiated and agreed

reform and adaptation to the changing requirements of the industry. Abolition represents the removal of collective bargaining from the industry, in breach of internationally recognised obligations.

A report by IDS for the Low Pay Commission suggests that pay might become binary along skill lines:

“Employers may choose to condense the grading structure, leading to a simplified structure with a rate for unskilled workers and a separate higher rate for skilled workers. In this situation, there is potential for a reduction in the number of semi-skilled workers (grade 2) – currently the largest proportion of agricultural workers”.

This is a worrying prospect for more than 54,000 semi-skilled workers in the industry across the UK, who either face being paid an unskilled rate or trying to gain more skills to achieve a higher rate, without the current provisions of the AWB Order where workers are entitled to have training fees and associated expenses paid for by their employer.

The DEFRA Impact Assessment relating to the proposed abolition, at section 2 refers to contractual rights remaining after abolition unless varied by agreement. Not only does this expose the vulnerability of the individual worker or small groups of worker, but it will also leave the smaller farmers exposed to the larger farmers and growers who can maximise the savings at the expense of the workers. Smaller farmers will be forced to vary terms and conditions in order to compete; those workers on existing AWB rates will be put under pressure as new workers employed on less favourable terms will divide these tight-knit workplaces and communities. Unite has witnessed this occurring in other industries and campaigned hard against this.

### **Children and apprentices in agriculture**

Historically children have worked in agriculture, often to make a vital contribution to the low household income. (Farming is the only industry where child deaths are a regular occurrence, not a rarity.) The long summer holidays of schools reflect this.

The AWB rates of pay for children of compulsory school age reflect the reality that many school-age children work in the industry; in a recent article Polly Toynbee cites the example of 9-year-olds harvesting spring onions; these could well have been for growers supplying major supermarkets. The National Minimum Wage makes no such provision for children of school age, with rates for over-16s only.

The AWB rates of pay for children over compulsory school age reflect two further realities. First, that many school leavers wish to enter the industry and earn a wage as soon as they leave compulsory education; and secondly, that from day one they will be working both as adults and alongside adults, undertaking physically arduous and hazardous work in all weathers, with the responsibilities for livestock and equipment. This is where the differences in NMW rates for 16-18 year olds, and 18-21 year olds are inappropriate. Aggressive livestock make no distinction between the 16-year-old and the 19-year-old.

For these reasons the NMW apprentice rates, with a starting rate of £2.65 against the AWB rate of £3.57, are inappropriate for agriculture, and would act as a powerful deterrent to apprenticeship.

### **Appropriate overtime**

Overtime rates in agriculture achieve two aims. The first is that they acknowledge the additional effort and commitment of the worker in undertaking work outside core hours and compensates for this. Secondly, the higher rate is a clear demarcation between core and extra time for both employer and employee, a demarcation found in comparable industries such as construction. As already noted, long hours are endemic in agriculture. It is not difficult to imagine the tensions that would be created where overtime is needed, but there is no compensation for this.

Abolition of the AWB overtime rate would leave agriculture exposed as employing 154,000 workers with no separate rate for overtime. It would mark its move away from modern norms in the private and public sector, where overtime rates are standard practice.

At 39 hours, the AWB definition of the normal working week is longer than in many sectors; the NHS has a standard working week of 37.5 hours, while the NJC for local government is 37 (this applies to manual and non-manual workers and would include horticultural workers).

### **A hazard to health and safety**

As already noted, agricultural work is arduous and hazardous. For agricultural workers who often work long and anti-social hours, including during bank holidays, annual leave is essential for resting physically and mentally, and for spending time with families and friends. The AWB-set 31 days annually is comparable with other industries. The holiday entitlement with which the government proposes to replace AWB levels is, at 28 days, a level that leaves UK workers far worse off than most EU competitors.

The clear health and safety implications of shorter holiday entitlement are compounded for those working 6 days a week. Their 38 days' annual leave is some compensation for only having 1 regular day off a week. Post-abolition, there would be no such recognition. The physical and psychological impact of this would be considerable, and it would be difficult to see how workers could take on a 6-day week without the offset of the longer statutory annual leave.

The scrapping of the sick pay scheme and imposing the SSP in its stead would see farm workers returning to work in the UK's most dangerous industry when not wholly fit, and being exposed to a higher risk of further illness or injury as a result. The DEFRA consultation document is conveniently silent on what will happen to those workers who are on less than the Lower Earnings Limit of £107 a week.

### **Abolition equals discrimination**

With regard to the AWB, Unite believes that abolition would be discriminatory under the Equality Act on at least three grounds. It would be discriminatory in terms of age, against young people, because with its youth rates the AWB allows for higher rates of pay than the NMW. It would also be discriminatory on grounds of gender and on grounds of race.

During previous attempts to abolish the AWB, it was established that abolition would indirectly discriminate against women. The Order sets out statutory rates of pay for part-time and temporary workers, and women are more likely to be part-time or temporary workers

In addition, abolition of the AWB rates and a move to NMW rates will have a disproportionate impact on migrant workers, and thus be in breach of the 2010 Equality Act. Migrant workers are predominantly Grade 1 workers on short-term contracts. They would lose Grade 1 pay and see a decrease in pay immediately on being moved to NMW rates, and they would also lose overtime rates.

### **Enforcement in a post AWB agricultural industry**

The UK government is proposing that HMRC would undertake the work of enforcing the NMW in a post-AWB industry. The timing of this proposal could barely be worse. In June 2012 the civil service union PCS held a strike against job cuts of 10,000 by 2014-15. This follows the loss of 30,000 jobs since the formation of HMRC in 2005. HMRC is already struggling with its burden of work.

The UK government is silent on the capacity of HMRC to enforce the payment of the NMW in remote rural areas on behalf of 154,000 workers, and on the fate of the Rural Payments Agency/Rural Inspectorate and the Agricultural Wages Team at DEFRA, whose experience in this area would be lost. Unite would suggest that raising pay inquiries by phone with HMRC would be virtually impossible, as it is so difficult to get through.

All in all, the abolition of the AWB could have a severely detrimental impact on the future of farming in Wales. Should employers choose to move away from the minimum standards and career path of the AWB it could become increasingly difficult to attract new workers to the sector in the sufficient numbers needed to sustain a viable future. In addition, in many areas agriculture functions alongside other industries and agriculture could lose skilled workers to other industries with better terms and conditions.

The abolition of the AWB would not only be bad news for workers but for Wales as a whole.

### **Building an Agricultural Wages Board (AWB) for the future of Welsh workers and Wales**

Unite has and continues to work and campaign hard against the abolition of the AWB for England and Wales. However, should the UK government press ahead with the much opposed abolition we welcome the Welsh Government commitment to seriously look into establishing a new AWB for Wales.

In doing so Unite would recommend that the Welsh Government consider the following:

- An impact assessment specific to the role of the AWB in Wales.
- Research into the unique nature of employment across agriculture and land based work in Wales.
- The Welsh Government to produce statistical information relating to agriculture and the rural economy in Wales, independent of the figures produced by DEFRA.

As previously stated in this submission, Unite's position is that the AWB has many benefits for both Welsh workers and Wales and we would urge the Welsh Government to utilise any such opportunity for a new AWB to build a body that most effectively serves and sustains a future for agricultural workers, the rural community and economy in Wales.

#### **The focus of a future AWB**

Unite would consider that the remit of the AWB should be made broader rather than narrower. Unite is aware that there are a number of people working in related areas in agriculture – such as estate workers and game keepers – who may have their pay pegged to the AWB board but are not officially covered by the board. Unite believes that the scope of the AWB should be widened to include others such as gardeners, forestry workers and pack house workers (pack house workers are currently only covered if they do part time work on a farm.) In many instances, it may be a simple case of applying common sense when it comes to broadening inclusion. In other instances, it may be worth looking at widening the coverage of the AWB in the context of creating a larger sustainable rural industry and workforce that is able to successfully recruit and retain people in Wales.

The issue of salaried rate of pay could be looked at. Unite tabled a point on salaries in last year's (and most recent) submission to the AWB, as we believe fair salaries would benefit the industry and allow our members to access mortgages and other financial services more easily.

Unite considers that representation on the AWB – that of farmers and workers through the unions – should remain the same.

#### **Education and awareness of the AWB**

The role, purpose and necessity of the AWB could be promoted externally and to the general public and the farming community in particular to a much greater extent. One suggestion is that such promotion could be done through better direct communication with community organisations and groups such as the Women's Institute, Young Farmers, youth clubs, parish councils, churches and more. There is, of course, a key role for political representatives to play in this.

There is a stronger role for the Welsh Government in promoting the role of the AWB – and as a consequence a future career in agriculture in Wales - to schools, particularly in rural communities and targeting colleges with relevant courses and students.

Unite is aware that many of the employers that submitted to the DEFRA consultation at the end of last year in favour of retaining the AWB cited the certainty, resources and removal of insecurity that the AWB provides them with. It also takes away the need for and stress of uncomfortable face to face negotiation and confrontation. The statutory element additionally gives clarity and reduces the possibility of being undercut by other employers in the same sector and/or area. These are all elements that more employers and the relevant communities can be made better aware of and given more resources to understand.

Unite believes that with increasing competition for skilled labour the standards set by the AWB should and could be a benchmark where there is nothing preventing employers from adding to the package to give them not simply the extra edge but also ensure the greater productivity of employees, standard of work and related conditions, not to mention the likelihood of days lost to illness and injury as workers are trained to a decent standard and greater levels of workplace health and safety recognised. The standards set by the AWB should be something for government, employers and employees alike to be proud of and champion.

### **Enforcement and adherence**

In looking at the future of the AWB in Wales, consideration should be given to measures to improve the enforcement of AWB rates and to effectively tackle rogue employers operating and exploiting workers in the agricultural sector. If a board was established for Wales, Unite believes that the Welsh Government should appoint an inspector for Wales to check and ensure the AWB was being adhered to. Such a labour inspector could both respond to queries/issues raised as well as work to actively enforce the AWB on the ground. As things stand at the moment, no inspection or checking takes place unless a complaint has come forward or an approach made.

The current enforcement regime involves several agencies and the current system of enforcement builds in barriers to time and multiple agencies, which may not be helping in terms of under-payment, and could be making enforcement and access to raising complaints more difficult that it needs to be. A Wales based and specific phone number for both farmers and workers would be a welcome and more effective development.

Of course, for more people and communities to be made aware of the AWB along with the rights, responsibilities and benefits it brings could act as a powerful and productive means of ensuring adherence to its standards and orders. A copy of the AWB order should be sent out to every farmer; Unite currently distributes copies to our members but we are aware individual farmers do not receive a copy as standard. In addition, decisions of the AWB should be advertised more widely both to farming communities and the general public, we are presently aware that it gets little more coverage than Farmers Weekly and Unite publicises information in our own Landworker publication.

Should alternative arrangements need to be made for Wales, Unite would welcome the opportunity to work with the Welsh Government and other relevant representatives to develop a structure that sets a benchmark for a successful and sustainable future for Welsh works and agriculture in Wales.

Submitted by Unite Wales.

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