

## Environment and Sustainability Committee

E&S(4)-04-13 paper 3

### Inquiry into the proposed abolition of the Agricultural Wages Board – Evidence from NFU Cymru



#### **Introduction & Summary**

1. NFU Cymru welcomes the Environment and Sustainability Committee's enquiry into the future of the Agricultural Wages Board (AWB)
2. We believe that the abolition of the AWB will fit with a modern, forward thinking farming industry that will deliver for the future. NFU Cymru therefore welcomes the announcement by Defra Minister David Heath of 19<sup>th</sup> December 2012, that subject to Parliamentary approval, the AWB will be abolished from October 2013.
3. NFU Cymru considers the AWB to have been superseded by modern developments, such as the National Minimum Wage and Working Time Regulations. The AWB structure and function has therefore been obsolete for some time now, and it is appropriate that it is abolished.
4. Following the abolition of the board in England and Wales, NFU Cymru does not believe that there is a case for re-introducing a separate AWB type structure in Wales.
5. NFU Cymru would prefer instead to see resources currently spent on an outdated wages council, re-directed into encouraging new entrants into agriculture and expanding on the successful and popular Welsh Government Young Entrants Support Scheme.

#### **The case for abolishing the AWB**

6. In 1970 the number of different wage councils peaked at 55, and often covered very niche sectors. Wages councils included the Coffin Furniture and Cerement Making Wages Council, the Pin Hook and Eye and Snap Fastener Wages Council, and the

Ostrich and Fancy Feathers and Artificial Flowers Wages Council. With the exception of the AWB, all remaining wages council were abolished by John Major's government in 1993. NFU Cymru therefore considers the continued existence of AWB to be an anomaly and a vestige of a bye-gone era.

7. Whilst the AWB may once have been an appropriate structure, it has now been superseded by modern-day developments, such as the introduction of the National Minimum Wage in 1999, one of the flagship policies of the then Labour government. NFU Cymru believes that the continued existence of the AWB puts agriculture out of step with all other employers in England and Wales.
8. The 1948 Agricultural Wages Act is an old-fashioned, cumbersome and costly regulatory framework whose aims and objectives have been overtaken by recent employment legislation. As things currently stand, an agricultural employer needs to understand and apply both the Agricultural Wages Order and general employment law, a burden no other sector has to carry. It creates anomalies and division between agricultural and other food chain workers who may be performing identical tasks, but be subject to different minimum wages.
9. The Welsh Government has encouraged farmers to diversify their businesses in order to secure alternative income streams. The existence of the AWO creates further problems for a diversified farming business where employees may carry out a mixture of work that is agricultural, and therefore governed by the AWO, and non-agricultural and therefore governed by the National Minimum Wage. Such diversified farm activities are deemed to fall outside of the scope of the Agricultural Wages Order whilst everyday farming activities will be of course be within the scope the of the AWO. This creates a burden for employers of having to work to two separate pieces of legislation.
10. Whilst the AWO imposes a burden on farmers and farm businesses, it should also be remembered that the existence of the AWO incurs direct costs in the form of a dedicated taxpayer funded pay and work helpline and increased training and enforcement costs for organisations such as the Gangmasters Licensing Authority and HMRC.
11. The AWB has failed to move with the times and has not kept up to date with modern practices such as the paying of staff on the basis of an annual salary, or on the basis of 'piece work'
12. Agriculture is characterised by a huge diversity of business types and production systems. Some require large numbers of temporary workers for low skilled roles, whilst others employ highly skilled workers responsible for large businesses. Agriculture has become increasingly specialised, and the inherent seasonality means peaks and troughs in labour needs, yet the agricultural wages order does not allow that flexibility.

13. Payment of an annual salary has the effect of ironing out the inevitable peaks and troughs in the pay of agricultural workers and offers instead greater security through a consistent weekly or monthly pay packet.
14. The AWO requires a three month reference period for salary purposes, and consequently there may be times when the hourly rate for workers temporarily drops below the AWB minimums due to it being a peak working period on farm. This would not be an issue over the course of the year, but would be unlawful if the AWO were strictly applied.
15. The AWB fails to take into account the hugely differing fortunes of various sectors of the agricultural industry, with wage determinations made on a 'one size fits all' basis.
16. Abolition of the board will put farmers on an equal footing with other employers in Wales, allowing them to recruit and retain workers without the restrictions of the order. As part of the food supply chain, farmers in Wales are forced to adhere to this additional regulation whilst the rest of the supply chain acts under National Minimum Wage legislation.
17. For example, as things currently stand if milk is produced on farm then the rates of pay for the labour used on farm to produce that milk will be determined by prevailing AWB rates. The rest of the supply chain will be free to set their own rates of pay for the processing of that milk and its sale in the supermarket (with due regard to the National Minimum Wage)
18. The difference between the National Minimum Wage Determination for October 2012 (£6.19 per hour) and the Agricultural Wages Order determination of October 2012 (£6.21 per hour) is just two pence per hour. We would question whether having such an elaborate construction as the AWB in place in order to confer a benefit of just two pence per hour on the lowest paid agricultural workers is a good use of money and resources and whether this money and resource would be better deployed in training for employees and encouraging people into the agricultural industry.
19. Farmers have to pay competitive rates to attract and retain skills, just like any other business, and the average wage of a farm worker is on par with that of a van driver or medical secretary. On average farm workers are over £100 per week better off than the tens of thousands employed in retail and hospitality. Abolishing the AWB will allow greater flexibility in determining wage settlements, reflecting a farm workers skills, performance and contribution to the business
20. We do not share the view of some that farm workers will suffer low wages if the AWB is abolished, and that farmers will simply seek to pay the minimum allowed under National Minimum Wage legislation. Such claims are ill founded and pay no regard for current rates of pay, existing contractual obligations or for the commercial realities of farming businesses operating in a competitive marketplace.

21. The reality is that few farm workers currently receive the minimums set by the board. Average earnings in 2010 for full time farm workers were 41% above the industry minimums set by the board and few are paid near to the minimums set out in the order. The Annual Survey of Hours and Earnings (ASHE) for 2010 showed that 90% of workers employed in agricultural trades received gross pay above £6.50 an hour. When measured against the AWO grade 2 minimum of £6.40 per hour that was in effect in April 2010, it is reasonable to conclude that the vast majority of farm workers are paid well above the AWO minimums
22. Bringing agriculture into line with other sectors by abolishing the AWO would mean that farm workers and businesses would instead have recourse to a wide range of advisory resources from organisations such as ACAS and the Citizens Advice Bureau. This would lead to greater awareness and appreciation of the employment rights that farm-workers, along with every other worker in the economy enjoy.

### **Conclusion**

23. NFU Cymru is happy to work with Welsh Government and all with an interest in agriculture and training to make our industry attractive and a long term career prospect with opportunities for training and career progression.
24. NFU Cymru is proud of the fact that agriculture is one of the few industries in Wales with a growing workforce, 2000 extra in fact in the last couple of years. We want to work pro-actively and positively with all those who have an interest in the sector to build on the growth in opportunities in the sector going forward.
25. NFU Cymru would prefer instead to see resources currently spent on an outdated wages council, re-directed into encouraging new entrants into agriculture and expanding on the successful and popular Welsh Government Young Entrants Support Scheme.
26. NFU Cymru currently offers support to its farming members on employment law, to ensure good employer:employee relationships. When the board is abolished it is our intention to offer a package of advice for our members on the legal implications of abolition of the Board for employers. It will also be our intention to provide additional guidance on best practice, focussing on the relationship between salaries and skills and on labour market conditions so that employer's negotiations with staff on wages can reflect drivers in the wider market.