



Home Office

**REVIEW OF THE SEASONAL
AGRICULTURAL WORKERS' SCHEME
2002**



May 2002

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INTRODUCTION

This paper has been sent to a wide range of organisations that are likely to have an interest in the SAWS review; a list of these is at Annex A.

In addition we will be holding meetings with groups of key stakeholders who are most closely involved with the current scheme; representatives of farmers, growers, major sector associations, trades unions and the current SAWS Operators. This paper will be considered at these meetings.

If you are represented by one of the organisations listed we hope that you will make your views known to them so that their contribution to the review is as representative as possible. However, if you wish to put forward your own views or if you are not represented by any of the organisations listed please send any response you wish to make by 23 August 2002 to;

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Additional copies of this paper are available through our website
www.homeoffice.gov.uk/atoz/consult_papers.htm

Responses and the name of the respondent may be made public unless confidentiality is specifically requested.

REVIEW OF THE SEASONAL AGRICULTURAL WORKERS' SCHEME

1. Background to the review

1.1 On 7 February 2002 the Government published a White Paper on Immigration and Asylum entitled "Secure Borders, Safe Haven: Integration with Diversity in Modern Britain". This White Paper announced the intention to review the existing Seasonal Agricultural Workers Scheme (SAWS) to see how it might better meet the needs of the agriculture sector. It also announced that the Government would build on the principles of SAWS to meet any demand for short-term casual labour in other sectors of the United Kingdom economy.

1.2 The Immigration and Nationality Directorate (IND) of the Home Office is conducting the review.

2. Purpose of this paper

2.1 This issues paper is part of the process to consult key stakeholders and other interested groups in the review of SAWS. The purpose of the paper is to:

- provide background information on the demand for seasonal and casual labour within the agricultural industry, and the operation of the current SAWS.
- state the objectives of the review and highlight some of the key issues that need to be considered as part of the review.

3. Seasonal and Casual Labour in the Agriculture Industry

3.1 The UK agriculture industry is a substantial employer of seasonal and casual workers. Parts of the industry, in particular horticulture, are heavily dependent on seasonal and casual workers for activities such as sowing, planting, harvesting, sorting and packing. The demand for seasonal labour is not limited to specific crops or to particular geographical areas although certain crops

and areas require a greater deployment of seasonal and casual workers than others. Annex B, Table 1 summarises some of the principal users of agricultural labour:

3.2 Although demand for seasonal workers in the arable and livestock sectors is probably not as significant as in the horticultural sector, there are some areas of production in these sectors that do require significant numbers of seasonal workers. Two such examples are the picking and grading of potatoes and the processing of poultry in the weeks prior to Christmas.

3.3 By its nature the demand for seasonal workers in agriculture will vary considerably depending on the time of year. The June 2001 census of agriculture and horticulture in the UK shows that approximately 64,000 seasonal and casual workers were employed in these industries (this includes both migrant and resident workers), representing around 34% of the total number of those employed (excluding salaried managers, farmers, partners, directors and their spouses). The number of seasonal and casual workers employed in agriculture and horticulture rises significantly in the harvest months of August and September.

3.4 The majority of seasonal and casual workers are either recruited direct by the farmers, are supplied by gangmasters, or are students seeking part-time or vacation work. Additionally the SAWS and the Working Holidaymaker arrangements provide a further source of temporary labour. However, in recent years agricultural and horticultural employers have found it increasingly difficult to recruit sufficient numbers of temporary workers for several reasons.

3.4.1 The labour market has become increasingly competitive as the level of average unemployment in the UK by claimant count has fallen. In many of the areas seeking seasonal and casual agricultural labour the unemployment rate is even lower.

3.4.2 The temporary and weather dependant nature of much agricultural work can be discouraging to some people, particularly where they perceive a difficulty in moving off and then back on to benefit after undertaking short periods of seasonal and casual work.

3.4.3 Anecdotal evidence indicates a decline in the supply of other traditional sources of seasonal and casual labour, such as students from the UK and other European Union countries. More attractive and better paid employment in other sectors has discouraged the take up of seasonal work in agriculture which can be seen as both hard and offers relatively less remuneration. There may also be a perception that, in comparison to other sectors, agriculture is not developing or likely to provide future employment opportunities that can be found elsewhere.

3.4.4 Working Holidaymakers have tended to reside and take up casual work in urban areas rather than live in the countryside.

3.5 As a result of these labour market changes there is a substantial amount of evidence indicating that agricultural and horticultural employers are experiencing considerable difficulty in recruiting sufficient numbers of seasonal and casual workers, particularly at periods of peak activity. Consequently, some farmers and growers argue that they are constrained in their ability to meet increasing domestic demand, and in some cases export markets, for fruit, vegetables, flowers and ornamental plants. This opens the UK market to imports.

3.6 There is no information quantifying the size of the shortage in the supply of seasonal and casual labour. However, the evidence collected by enforcement agencies suggests that shortages in the supply of labour are increasingly being met by non-EU citizens working in the UK illegally and by UK nationals working illegally whilst in receipt of benefit.

3.7 The employment of resident workers in agriculture, many of whom are full-time, relies on the existence of casual workers to meet seasonal peaks in the industry. Recent research has indicated that migrants do not harm the employment prospects of the existing population.

4. The Current SAWS

4.1 SAWS originates from the immediate post-war years when Government sought to facilitate the movement of young people from across Europe to work on the land, and in particular to gather harvests. Although the numbers of people participating in the scheme has increased over the years, the principles and features of the SAWS have largely remained the same since its inception.

4.1.1 It is an additional source of labour to help farmers during their peak season. Under SAWS the season is defined as the period from 1 May to 30 November, although a small number of participants are allowed to enter in March to meet the labour needs of some farms. Individuals are allowed to participate on the scheme for the duration of the season.

4.1.2 As a youth orientated scheme it enables participants to learn something about the culture of the UK, the English language and allows time for recreational activities. Most participants are full-time students aged between 18-25, often attending agricultural colleges in their home countries. The majority of participants are from Eastern Europe and states of the former USSR. Annex B table 2 summarises the nationalities of SAWS workers for the year 2001.

4.1.3 The primary motivation of those who join the scheme is to earn money in an area of work which is relevant to their studies which they can take back to their home country. Many are prepared to work long hours to maximise their earnings while others prefer to use their spare time for recreational activity, such as sightseeing.

4.1.4 The scheme uses Operators who recruit participants, allocate them to farms and ensure they receive the appropriate wages and conditions. Farmers and growers are required to provide suitable accommodation for scheme participants. Operators are responsible for ensuring this requirement is met prior to allocating participants.

4.1.5 Currently there are seven SAWS operators. Five recruit participants to work on their own farms and two recruit on behalf of other farmers/growers. A Code of Practice between the Home Office and the Operators governing the operation of the scheme has existed for several years and is included at Annex D.

4.1.6 Quotas are used to manage the numbers of people that may participate in the scheme. Each year the Operators receive a proportion of the SAWS quota in the form of work cards they issue to scheme participants prior to their entry to the UK.

4.2 Annex C shows the increase in the annual SAWS quota over time. The increase has been in response to demand from farmers and growers for additional seasonal labour to work on their farms.

5. Objectives of the SAWS review

5.1 The objectives of the review are to:

- Establish the continuing need for SAWS and its objectives
- Identify the strengths and weaknesses of the current scheme
- Make recommendations for improving the operation of the scheme
- Develop, implement and evaluate any revised procedures

6. Issues for consideration

Views are invited on the nine key issues listed below and any other issues that are pertinent to the review:

6.1 *Developing recruitment strategies for seasonal workers*

6.1.1 What scope is there to improve recruitment of seasonal workers from the resident workforce (for example, through changes to recruitment and training practices; improved pay and conditions; changes to benefit arrangements)?

6.1.2 To what extent do farmers and growers seek to develop their relationship with the local Jobcentres in their search for seasonal workers from within the resident workforce?

6.1.3 According to the Department for Work and Pensions a number of large scale, seasonal recruitment programmes have been successfully operated through the European Employment Service (EURES). This facility helps employers to recruit from across the European Union. To what extent do farmers and growers know of this resource and use it? How effective do they think it is in meeting their needs?

6.2 *Whether there is a continuing need for SAWS*

The majority of scheme participants originate from Eastern Europe as shown in Annex B Table 2. Many of these states are due to accede to the European Union in the coming years, so in due course nationals of these countries will be able to freely enter the UK to undertake seasonal as well as permanent work. This will have an impact on the supply of seasonal and casual labour but until accession occurs it is difficult to assess the full impact.

6.2.1 In light of the above information, is there is a continuing need for SAWS in order to meet the short-term need for labour in agriculture?

6.3 The purpose of the scheme.

6.3.1 It is a requirement of the current scheme that participants receive some sort of cultural experience while in the UK. However, the extent to which this occurs may be variable. There is little or no evidence that participants join the scheme for this reason. As the recent increases in quota show employers see the scheme as an important source of labour.

6.3.2 Should the cultural aspect continue to be a specific objective or no longer be required as an explicit feature of the scheme? If a cultural element is retained it would need to be clearly defined, implemented, monitored and enforced.

6.4 Defining the scope of SAWS.

6.4.1 The Code of Practice (Annex D paragraphs 6 and 7) describes the work that SAWS participants are currently permitted to do. What are the seasonal needs in agriculture and what occupations and parts of the industry that are not currently covered by the existing SAWS should be considered for inclusion under a revised scheme?

6.5 Defining the season

6.5.1 The current season under the SAWS is 1 May until 30 November, although some students are allowed to join the scheme from 1 March. If the scope of the SAWS is widened to include occupations or parts of the industry not currently included, how does this impact on the current length of the SAWS season?

6.6 The size of the quota

6.6.1 The current SAWS quota is 18,700 and this is set to rise to 20,200 in 2003. The recent Policy Commission set up to look into the future of farming recommended in its report "Farming and Food: a sustainable future" that the SAWS quota should be raised to 50,000, though no information was provided to explain how this figure was derived.

6.6.2 How should future quota levels be determined? If an increase from the agreed quota of 20,200 in 2003 is appropriate, what should the new quota be and on what basis should it be decided?

6.6.3 How should any quota increase be allocated to Operators, farmers and growers?

6.7 Administration of the scheme

6.7.1 The current SAWS quota is allocated between seven Operators all of whom have been involved in the scheme for a considerable period of time. Their role is defined in a code of practice agreed between the Operators and the Home Office.

6.7.2 What are the advantages of using Operators over and above any other approaches for managing a revised scheme?

6.7.3 If Operators are to be retained in any revised scheme how should their roles, responsibilities and accountability to the Home Office be defined and managed?

6.7.4 How should the quota be allocated between the Operators if they continue to be part of a revised SAWS? How should the Operators in turn determine the allocation of participants to individual employers?

6.7.5 How would the current Operators cope with any further increase in the quota?

6.7.6 No mechanism currently exists for determining the selection of Operators. Legally, a formal tendering exercise may be required. If so, what criteria and process should be used for identifying and selecting Operators and how often should this take place?

6.6.7 The provision of accommodation for participants by farmers and growers is a requirement of the current scheme. How effective are the current arrangements for ensuring scheme participants receive the appropriate employment and living conditions that comply with legal requirements and those set out in the code of practice? Should employers continue to be required to provide accommodation and other benefits?

6.7 Scheme participant criteria

6.7.1 Most SAWS participants are full-time students, aged between 18-25, attending agricultural colleges in their home countries. If there are changes to the criteria, such as the scope of SAWS and the quota, what impact will this have on the eligibility criteria of scheme participants? What are the advantages and disadvantages of extending the scheme to people aged over 25 and to people other than students?

6.8 Incentives to encourage participants to return abroad after their stay in the UK.

6.8.1 It is estimated that between 4%-10% of SAWS participants overstay, in breach of their entry conditions. As part of a managed migration policy it is essential that incentives exist to discourage participants from overstaying and as far as possible ensure they return abroad at the end of their stay. What can be done to achieve this?

WORK PERMITS (UK)

IMMIGRATION AND NATIONALITY DIRECTORATE

HOME OFFICE

MAY 2002

List of Consultees

1. National Farmers Union
2. Fresh Produce Consortium
3. Country Land and Business Association
4. Tenant Farmers Association
5. Horticultural Trade Association
6. National Farmers Union (Scotland)
7. Mushroom Growers Association
8. Farming Union of Wales
9. Ulster Farmers Union
10. Processed Vegetable Growers
11. British Carrot Growers Association
12. BBPA Technical Committee
13. Cucumber Growers Association
14. Lettuce Technology Group
15. Lisianthus Study Group
16. Plant Propagators Ltd
17. Tomato Growers' Association
18. UK Chrysanthemum Growers Association
19. Alstroemeria Study Group
20. Bulb Flowers Study Group
21. Cut Flower and Foliage Study Group
22. British Christmas Tree Growers Association
23. British Independent Fruit Growers Association
24. British Potato Council
25. National Summer Fruits Ltd
26. TGWU, Rural, Agricultural and Allied Workers Section
27. Confederation of British Industry
28. British Chamber of Commerce
29. Trades Union Congress
30. Immigration Law Practitioners Association
31. The Refugee Council
32. Immigration Advisory Service
33. Citizens Advice Bureau Service
34. Local Government Association
35. Institute for Public Policy Research
36. Oxfam
37. Law Centres Federation
38. UKCOSA
39. Institute of Directors
40. Forum of Private Business
41. Federation of Small Businesses
42. Small Business Service
43. Ethnic Minority Business Forum
44. Institute of Public Relations
45. Lantra
46. Ethical Trading Initiative
47. Office of the Immigration Commissioner
48. Recruitment and Employment Confederation
49. Concordia (YSV) Limited
50. R & J M Place Limited
51. Friday Bridge
52. Leroch Farm
53. HOPS (GB)
54. G's Marketing Limited
55. Tiptree International Farm Camp

Table 1**Summary of some of the principal users for seasonal labour in agriculture**

Crop	Significant Producing Areas
Vegetables	Throughout England, with Lincolnshire specialising in field vegetables and the South Coast in protected crops.
Mushrooms	Northern Ireland
Fruit Production	Kent, East Anglia, Hereford and Worcestershire and Somerset. Northern Ireland is a significant producer of Bramley apples.
Soft Fruit	Kent, Essex, Norfolk and Hereford and Worcestershire. Scotland is a main producer of raspberries for processing.
Non-edible products (eg flowers & ornamental plants)	East Anglia, the South East and West Midlands are main producing areas.
Bulb and bulb flower production	South West and the eastern Counties

Table 2**Non UK/EC nationals reporting for work in the UK under the SAWS in 2001, summarised by nationality.**

Country	Number	Country	Number
Poland	4040	Hungary	83
Lithuania	1708	Russia	583
Czech Republic	575	Latvia	635
Slovak Republic	728	Estonia	269
Bulgaria	1779	Macedonia	138
Ukraine	2980	Belarus	683
Romania	355	Others	314

Total No. = 14,870¹

¹ Source: Home Office Immigration and Nationality Directorate

Annex C

SAWS Quotas to 2003

Year	Annual Quota
2003	20,200
2002	18,700
2001	15,200
1997-2000	10,000 p.a.
Up to 1996	5,500 p.a.

Note: The increase in the quota by 5,000 over the two year period 2002 – 2003 was decided after discussions with the Home Office, DEFRA, industry representatives and the SAWS Operators.

CODE OF PRACTICE FOR OPERATORS AND PARTICIPANTS IN THE SEASONAL AGRICULTURAL WORKERS SCHEME (SAWS)

1. The scheme *Operators* are responsible for:
 - a) the recruitment of and processing of applications from overseas students to take part in the scheme. Students should be in full-time education and be aged 18-25 inclusive on the date of entry to the United Kingdom, but see 6e. The operators must arrange for the students to be employed directly by a farmer or by the scheme operator without the use of gangmasters or other intermediaries such as employment agencies;
 - b) the efficient running of the scheme in keeping with its spirit. Operators must ensure that farmers provide adequate and acceptable accommodation for the students use. Students should have access to recreational activities - these may include events organised by the farmers themselves or they may wish to provide students with details of and/or transport to areas of local interest. Students should also have the opportunity to improve their English;
 - c) ensuring that farmers adhere to the regulations regarding minimum pay for casual workers as set out by the Agricultural Wages Board or any other legislation governing pay;
 - d) resolving difficulties with individual farms as they see fit. The Home Office will not act as a mediator in disputes between the operators and the farmers. The operators may take action which is appropriate to the circumstances, including the withdrawal of student assistance mid-season and/or exclusion from the scheme;
 - e) providing the Home Office, specifically the Immigration and Nationality Policy Directorate, with details of any student who leaves their authorised farm without permission, fails to report back to the operator and who is suspected of having failed to return to their country of origin.
2. The operators shall not be held accountable for students who leave their placement and are later discovered either to be working in breach of their conditions or to have claimed asylum. Neither shall the operators be responsible for arranging an/or funding the repatriation of any individual who by his or her actions ceases to be a SAWS student.
3. Operators should undertake to provide students with at least 5 weeks work under the scheme either within their own operation or, if not enough work is available, in cooperation with another operator.
4. Students may be transferred during the season when work is scarce, these transfers must be arranged through the operators and all parties must agree to the transfer. On no account should farmers take it upon themselves to relocate students without the consent of the operators, no matter what their relationship may be with the second farm. Operators who are also farmers may transfer students to other farms in the region if they are satisfied that the conditions on the new farm are satisfactory.
5. Farmers must fully disclose to the operators the duties that they will require the students to perform, including any intention to have them work off-site, unless the crop is situated on any land currently owned or leased by the Employer.

6. Students may be permitted to engage in the following work under the scheme:

- a) Harvesting;
- b) On-site packing, storage and processing of recently harvested crops from the farmer's own holding. The processing and/or packaging of non-seasonal or imported produce is allowed only if this is very occasional to provide continuity of work for resident employees and/or to ensure the availability of produce to the farmer's customers;
- c) Other agricultural work on a farm related to crops when there is no harvesting work available, eg. planting, sowing, thinning and weeding. Students may also carry out work related to any farm animals that may be kept by the farmer;
- d) Related duties around the farm camp eg. food preparation and cleaning of communal facilities for the students, provided these are done on a rota basis rather than as a long-term alternative to agricultural work or when harvesting work is temporarily unavailable;

e) Supervision of work as described at a-d above. It should be noted that students invited to return as supervisors or team leaders should be no more than 30 years of age.

7. Students *may not* engage in the following:

- a) Any work on farm premises which is not included in a-e above;
- b) Any work on farm premises which requires the student to be absent overnight from an authorised farm camp;
- c) Any work not on farm premises unless owned or leased by the Employers;
- d) Any work at centrally located packhouses which serve several farms, whether or not they are located on farms participating in the scheme;
- e) Any work at a United Kingdom educational establishment