

Wages Rates - Packhouses and supermarkets condoning illegal working

4 October, 2004

Some packhouses are condoning illegal working by paying rates to labour providers that do not allow all legal requirements to be met. Mark Boleat, Chairman of the Association of Labour Providers, said today:

“Labour providers are being squeezed at both ends of their businesses. Packhouses and, through them, supermarkets are requiring labour providers to comply with all legal requirements. At the same time some are refusing to pay a rate which allows this to be done. With the new minimum wage of £4.85 (£5.40 for agricultural workers other than manual harvest workers for whom the figure is also £4.85) any packhouse paying less than £6.30 (or farmer paying less than £7.02) an hour for supplied labour is knowingly condoning illegal working.”

These figures are based on calculations in the regulatory impact assessment for the Gangmasters (Licensing) Bill prepared by Defra. This analysis estimated that non-wage costs of supplying labour in a way that is fully compliant with the law add some 30% or more to the minimum wage. This is without any allowance for management costs or profits which add another 10%.

Mark Boleat added:

“There is, rightly, pressure on labour providers to act within the law. The Association has been working with other parties to introduce a code of practice which will mark a huge improvement in this respect. However, this will be of little value if the rates paid to labour providers make it impossible for them to act legally. Labour users must recognise that the minimum wage has gone up and that they have an obligation to ensure that they are not outsourcing and condoning illegality in an effort to drive down their costs.”

Note: relevant extracts from the Regulatory Impact Assessment for the Gangmasters (Licensing) Bill, published in March 2004, are attached.

Extracts from the Regulatory Impact Assessment for the Gangmasters (Licensing) Bill, March 2004

“2.11 Legitimate labour provider businesses operating within the law, risk losing or failing to secure contracts. Many are struggling to survive in business because of competition from illegal operators who are under-cutting them on price. Legitimate labour providers report that as a result labour users are reluctant to pay the true costs of legally supplied labour. It is estimated that non-wage costs of supplying labour in a way that is fully compliant with the law can add some 30% or more to the minimum wage (i.e. a minimum charge of £5.85 an hour for packing and manual harvest work and £6.70 for other agricultural work.....) It should be noted that this does not include any element for management costs or profits which the Labour Providers have suggested could be expected to add up to 10% more i.e. a minimum charge of up to £6.30 an hour in a packhouse or up to £7.20 for agricultural work.”

“4.13 As a result of this trend [labour users giving virtually no notice of changes in their requirements for labour] labour providers find it difficult to meet demand for a flexible work force whilst guaranteeing the minimum terms and conditions required by a growing body of employment legislation. The service that labour providers provide to the food industry is essentially one of surrogate employer. As employers, labour providers have to bear the costs of the improved employment rights just referred to. But labour users have not been prepared to pay the increased costs associated with these statutory benefits.”

“4.14 This phenomenon is driving illegal working and exploitation. The problems are unlikely to be significantly reduced unless the price paid for supplied labour is increased. This means that customers for such labour must be prepared to pay a price which allows labour providers to meet legal obligations towards their employees (e.g. at least the National Minimum Wage without bogus deductions, employers' NICs, statutory sick pay and holiday pay) and their legal obligations to the Exchequer, and make a profit. Any packhouse paying less than £5.85

(or farmer paying less than £6.70) an hour for supplied labour is knowingly condoning illegal working.”

The minimum wage was increased with effect from 1 October. With the analysis above the minimum figures with the new minimum wage should be £6.79 in a packhouse and £7.56 for agricultural work, after allowing for management costs and profit.