

# *Position paper: Seasonal Agricultural Workers Scheme (SAWS)*

## *Introduction*

1. Labour providers are the main source of unskilled workers for the agriculture and fresh produce trades, providing at any one time over 100,000 workers. A further 25,000 workers are provided through SAWS. This paper examines the interrelationship between the two sources of employment and raises some issues which call for a response from Government.

## *SAWS - basic facts*

2. SAWS dates back to the late 1940s and is basically a scheme to provide cheap seasonal labour, in the form of foreign students, for farmers.

3. To qualify for the scheme workers must live outside the European Economic Area and be in full time education. The period of work is between five weeks and six months and workers are expected to leave the country at the end of their period of employment. An annual quota (25,000 for 2004 and 16,250 for 2005) for the scheme is fixed; most applications come from agricultural students and are made through universities.

4. A small number of licensed operators run the scheme in the UK. They recruit workers and place them in farms. Workers cannot change employment without the agreement of the Operator.

5. The position on tax is unclear. The general position is that workers pay income tax the moment they start working. It is understood that SAWS workers do not begin paying tax until they reach the tax threshold and then they pay a reduced rate. SAWS workers are also exempt from payment of National Insurance contributions if they are studying an agricultural related subject in their home country.

6. There are nine operators. Two provide workers for farmers in specific areas (north Cambridgeshire, and Staffordshire and Shropshire) and five recruit for their own labour only. The remaining two, Concordia and HOPS, both charities, recruit for farmers throughout the UK.

## *The rationale for the scheme*

7. The basic rationale for the scheme is that farmers need it otherwise they would not have a sufficient supply of seasonal labour. The Home Office review of the scheme in 2002 commented:

“5.1.1 Farmers and growers find it increasingly difficult to recruit resident workers to meet their seasonal labour needs. Low unemployment levels and the short-term, manual nature of seasonal work that requires long hours and is weather dependent makes it difficult for farmers and growers to compete with other industries for labour.

5.1.7 The SAWS is widely seen as an essential source of seasonal labour for the agriculture industry. It provides reliable and flexible labour which farmers and growers know in advance they will receive in time for planting and harvesting and can plan their activities accordingly. Additionally, in an industry where a considerable amount of illegal working exists, farmers and growers are reassured that the SAWS labour is legitimate.”

8. In short, the rationale is that local residents do not want to do the work and the only other option is illegal working. The scheme therefore provides a double benefit – cheap labour for the farmer and reduced illegal working.

## *Issues*

9. The first issue is whether the rationale for the scheme stands up to scrutiny. Labour providers are a source of cheap workers and find themselves competing in some markets against SAWS Operators. 50% of workers in the scheme in 2002 were from the EU Accession States and the 2002 review reported demand much higher than the number of places available. Logic would therefore suggest that after 1 May 2004 the scheme would be unnecessary because there would be no limit to the number of workers, students or otherwise, who could come to the UK from the Accession States. The 2002 review took a different view:

“5.1.6 The impact of EU accession on the SAWS and the demand for seasonal labour within the UK agriculture in general is difficult to predict. It is expected that as countries accede nationals from those states will seek work in other, better paid industries, and farmers and growers will need to look to other parts of the world to meet their demand for seasonal labour. An implication of this will be the additional travel costs incurred in recruiting SAWS participants.”

10. Labour providers have no evidence that nationals from the Accession States are unwilling to work in agriculture and indeed are placing thousands of workers from the Accession States. The quota has been cut by only 35% in 2005 from 25,000 to 16,000 to reflect the enlarged EU. If SAWS was abolished tomorrow labour providers would have no difficulty in providing 16,000 more workers, mainly from the Accession States, on terms identical to those for the SAWS workers other than the tax benefits.

11. The second issue is whether the scheme represents unfair competition to labour providers through the tax benefits. The view of labour providers is that it does. They have to pay the minimum wage from which they must deduct tax and national insurance contributions, and in addition they have to pay the employer's national insurance contribution. In other words with the agricultural minimum wage at £5.40 they pay the worker, after deduction of tax and national insurance contributions, (above the 10% band and the lower income limit for NI contributions) £3.62 and have to pay £0.40 in NI contributions. By contrast, a SAWS worker receives £5.40 and the farmer pays nothing on top. It may be argued that the tax point is not valid as a worker not on SAWS could reclaim the tax if he worked for only six months. However, this ignores the psychological benefit of receiving £5.40 immediately rather than £3.62. It also ignores potential abuse.

12. Although SAWS workers are “expected to return home” at the end of their period of work there is no means of ensuring that they do so and no data on the number who do not return. The 2002 review identified the problem:

“5.7.1 There is no reliable and accurate data on the number of SAWS participants who breach their immigration status or overstay and work illegally in the UK. In the absence of embarkation controls it is not possible to accurately quantify this figure.

5.7.2 Currently the Operators and their farmers and growers are expected to report SAWS participants who abscond or overstay, but once the participant leaves the farm at the end of their SAWS period it is not completely possible to be sure they have exited the country.

5.7.3 There is evidence that some SAWS participants abuse the European Community Association Agreements (ECAA) which allow in-country East European nationals to remain in the UK for one year provided they are in self-employment. Some SAWS participants use this opportunity to extend their stay and undertake employed work only.”

13. SAWS workers are probably well placed to join the large numbers of agricultural workers in the cash economy, ironic in that one of the justifications for the scheme is that it is alternative to illegal working. There is an inherent problem in that the farmers with whom SAWS workers are placed cannot guarantee employment but SAWS workers are not permitted legally to work for anyone else. Not surprisingly, if their farmer cannot provide work illegal employment is preferable to no employment.

14. The final issue is whether a scheme which is basically **bonded labour** is acceptable. SAWS workers are not free to change jobs but must work either for the Operator only or for the farmer to which they are allocated. They are dependent on the SAWS operator and the farmer for their accommodation as well as their job. Given the accusations that are made against gangmasters it is perhaps ironic to find, in the section of the 2002 review dealing with abuse, the following passage:

“5.7.4 Legal, ethical and practical considerations make the use of financial bonds, the withholding of passports and the requirement that participants purchase a return air ticket problematic.”

#### *Questions for government*

15. This brief analysis leads to a number of questions to which a government response is needed:

- On what basis is it argued that SAWS provides an essential supply of labour when labour providers states that they can easily supply the same number of legal workers on the same terms (other than the tax benefits)?
- Why has the quota been cut by only 35% when the Accession States have provided 50% of participants and there has been an excess demand for places in the scheme from those states?
- What is the justification for treating SAWS workers differently from other temporary workers in respect of tax and national insurance?
- Does the scheme provide unfair competition to labour providers?
- Why are there no checks to ensure that workers leave the country at the end of their period of employment? Given that most workers are recruited from a smallish number of universities why are checks not made with those universities?

16. There is a final general point. There is virtually no data about the scheme. The 2002 review has just a few statistics and there is no breakdown of workers supplied by Operator or by country of origin or by age. The tax position is also unclear. It would be helpful if comprehensive data was made available so as to facilitate analysis of the scheme.