

September 2014

## **Position Statement - The Minimum Wage and Employment Agreements in the Agricultural Industry**

Deductions from wages that employees have formally agreed to in exchange for the provision of accommodation or other goods or services by their employer can be included for the purposes of assessing compliance with the Minimum Wage Act 1983.

### **Background**

Many employees in the agricultural industry are offered accommodation and other goods and services as part of their employment. This statement sets out the Labour Inspectorate's position on how the provision of accommodation and other goods and services should be dealt with to ensure the requirements of the Minimum Wage Act 1983 are met.

### **How much do I pay my employee?**

- An employer must pay its employees at least the relevant minimum wage set annually under the Minimum Wage Act 1983
- The minimum wage must be paid for each hour worked on the farm. Wages cannot be averaged over a season.
- Employees must be paid their wages in money, and cannot be paid through other non-cash benefits.
- Employees can, however, agree to deductions from their wages by their employer before payment, including for the provision of accommodation or other goods or services.
- A record of hours worked, wages payable (and paid), and leave taken must be kept.

### **What if I am providing my employee accommodation related to their employment?**

- Employers and employees may agree that the employer will provide accommodation to an employee, and also that the cost of that accommodation will be deducted from the employee's wages before they are paid.
- The agreed value of accommodation deducted before payment of wages will be included as "wages" for Minimum Wage Act calculation purposes.
- Any agreement relating to accommodation should clearly detail the accommodation arrangement and its cost to the employee, which should be reasonable. The wage records should include the wages payable before any deduction is made for the agreed value of accommodation.
- Where there is no specific agreement as to the cost of accommodation an employer can deduct 15% of the employee's wages calculated at the relevant minimum wage rate for board or 5% for lodging.
- For Minimum Wage Act purposes, board is considered to mean the provision of both accommodation and meals while lodging means the provision of accommodation only.

- The rental or accommodation agreement should be either separate from the employment agreement or able to be separated.

**Can we agree to the provision of other goods or services related to my employee’s employment?**

- Employers and employees can also agree that other goods or services may be provided related to the employment. For example, these might include the use of farming property, the provision of firewood or an animal.
- If provided as non-cash benefits, they cannot be considered as part of the employee’s wages when determining whether the minimum wage is being paid.
- However, where expressly authorised by the employee, the employer may deduct the agreed cost of those goods and services, (e.g. firewood, beast etc.) from wages payable before they are paid in which case the deducted amount will be included as “wages” for Minimum Wage Act calculation purposes.
- The wages records should include the wages payable before any deduction is made for the agreed value of the goods or services.
- Any such agreements and deduction authorisations should be recorded outside of the employment agreement.

Employers and employees should take their own advice as to the tax implications of arrangements for deducting accommodation costs or other agreed costs from wages.

They should also consider the need to comply with the Residential Tenancies Act 1986 for any accommodation provided.