

Background Information On Hand Harvester Piece Rates

(December 7, 2011)

History of Piece Rate Adjustments

Provided in Table 1 attached is a history of the minimum piece rate adjustments under Section 18 of the *BC Employment Standards Regulation* since 1995 for 15 agricultural products. Note that a minimum piece rate for harvesting daffodils was first established in 1996. This table also shows the adjustments made by successive governments to the general hourly minimum wage since 1995 but does not include the minimum hourly wage adjustment to \$9.50 on November 2011. No adjustment has been made to the hand harvester piece rates since May 1, 2011 pending the outcome of the Ministry of Labour's review/study.

Also provided in Table 1 for the purposes of comparison are the annual Statistics Canada Consumer Price Indexes (CPI) for All Items and for Food for each year of minimum wage adjustments. Calculated in the far right hand column of Table 1 is the percentage change from April 1999 to May 2011 in the hand harvester piece rates, the hourly minimum wage, and the CPI. This column shows that over the last 12 years 14 of the 15 piece rates increased by 18%, the piece rate for daffodils and the hourly minimum wage increased by about 22.4%, that the All Items CPI increase by 20.6%, and that the CPI for Food increased by 27%.

The main reason that hand harvester piece rates have not increased by the same percentage as the hourly minimum wage over the past 12 years was the 3.6% reduction in piece rates in May 2003 to remove compensation for Statutory Holiday Pay.

Although hand harvesters of the 14 piece rated products have not been compensated for Statutory Holiday Pay since 2003, their piece rates have continued to include 4% for vacation pay.

Minimum Wages for Hand Harvesters in Other Province

Except for the province of Quebec, no other province's employment standards legislation sets piece rates for hand harvesting that are not related to or less than the hourly minimum wage. In Quebec only the picking of raspberries and strawberries is compensated at minimum piece rates (\$2.84 per kilogram for raspberries & \$0.75 per kilogram for strawberries).

In Ontario there are rules governing how harvesters of fruit, vegetables and tobacco are to be paid a minimum wage if they are paid a piece rate, but the rules do not specify what those piece rates are for each product. Instead the rules provide that:

Harvesters can be paid on a piece-work basis, but the rate must be set at a level so that with reasonable effort they can earn at least the minimum [hourly] wage for all the hours they worked. The piece-work rate is set according to what is standard pay in an area for the particular crop. (Ontario Agricultural Workers Employment Standards Fact Sheet)

In addition, under Ontario's Employment Standards Act hand harvesters are guaranteed "equal pay for equal work", and are entitled to Statutory Holidays with pay if they have work for at least

13 weeks with an employer. And if they are required to work on a public holiday they receive a premium rate of pay (at least 1½ times regular rate) or compensating time off with pay.

Aspects of the Hand Harvester Piece Rate System that are Discriminatory

Aside from the complexities of devising and continually updating an equitable minimum standard of pay based on the weight or volume of product harvested, and arbitrarily selecting which products should be covered under a minimum piece rate system, there are several seriously discriminatory aspects to such a system.

As pointed out by Graeme Moore, under the BC Employment Standards Act one discriminatory aspect is the fact that there are a number of agricultural products that are hand harvested in addition to the 15 covered by the piece rate regulation and for which the harvesters must therefore be paid the hourly minimum wage, in particular hand harvesters of greenhouse grown products.

Another discriminatory aspect referenced by Graeme is the fact that Commissioned Salespersons, who are also paid according the volume of the product or service that they sell, are nonetheless guaranteed the minimum hourly wage under Employment Standards.

In addition hand harvesters being paid under the piece rate system have no way of knowing that the weights and measures used by either the farm owner or the farm labour contractor they work for are accurate, or if the translation of the volume or weight of products harvested into hours worked is accurate for EI reporting purposes. No other class of worker under the Act is subjected to such uncertainty and potential for abuse by employers. In addition, no other class of worker ceases to receive pay when, through no fault of their own, they are prevented from being paid for their work time because of employer delay in providing work or because they have to go to the toilet.

One other discriminatory aspect is that fact that hand harvesters are frequently harvesting the same product with the same employers who employ temporary foreign workers who are paid a minimum hourly wage.

According to HRSDC's SAWP web site the SAWP requirements in BC provide that employers "Can pay workers for piece work at the provincially established rate for the commodity, with guaranteed minimum earnings of \$9.28/hour for every hour worked". (Note that prior to November 1st this minimum hourly wage was higher than the provincial minimum hourly wage of \$8.75)

According to HRSDC's Temporary Foreign Worker Program web site the current BC minimum wage for temporary foreign workers engaged in harvesting fruits, vegetables, green house products and working in nurseries is \$9.50 per hour, that the "expected wage" on January 1, 2012 will be \$9.56 per hour, and on May 1, 2012 will be \$10.25 per hour.

Suggested Position on the Minimum Wage for Hand Harvesters

The most principled and equitable position on this issue is for the elimination of regulated minimum piece rates of pay for the hand harvesting of any and all agricultural products, and that while employers may choose to pay incentive piece rates for certain products at certain times of the year the rule be (as in Ontario and under the Temporary Foreign Worker programs) that such rates must be set at a level so that with reasonable effort they can earn at least the minimum hourly wage for all hours worked. This was the recommendation that came out of the 2008 CCPA Economic Security Project study report titled *Cultivating Farmworker Rights: Ending the Exploitation of Immigrant and Migrant Farmworkers in BC*.

In addition to the above, all farm workers should be entitled to the vacations with pay and statutory holidays with pay provisions of the Act.

Table 1: B.C. EMPLOYMENT STANDARDS REGULATIONS - PART 4 - MINIMUM WAGES

Section 18 - Farm Workers - Minimum Piecework Rates of Payment for Hand Harvesters

Type of Harvest	Basis of Payment	1995 (NDP)	1-Mar 1996 (NDP)	Percent Change '96/'95	1-Apr 1998 (NDP)	Percent Change '98/'96	16-Apr 1999* (NDP)	Percent Change '99/'98	1-Nov 2000* (NDP)	Percent Change '00/'99	1-Nov 2001* (NDP)	Percent Change '01/'00	15-May 2003** (Liberal)	Percent Change '03/'01	1-May 2011 (Liberal)	Percent Change '11/'03	Percent Change '11/'99
a) raspberries	per pound	\$0.255	\$0.275	7.8%	\$0.281	2.2%	\$0.302	7.5%	\$0.321	6.3%	\$0.338	5.3%	\$0.326	-3.6%	\$0.357	9.5%	18.2%
b) strawberries	per pound	\$0.247	\$0.265	7.3%	\$0.271	2.3%	\$0.292	7.7%	\$0.310	6.2%	\$0.326	5.2%	\$0.314	-3.7%	\$0.343	9.2%	17.5%
c) blueberries	per pound	\$0.295	\$0.305	3.4%	\$0.312	2.3%	\$0.336	7.7%	\$0.357	6.2%	\$0.376	5.3%	\$0.362	-3.7%	\$0.396	9.4%	17.9%
d) cherries	per pound	\$0.173	\$0.173	0.0%	\$0.177	2.3%	\$0.190	7.3%	\$0.202	6.3%	\$0.213	5.4%	\$0.205	-3.8%	\$0.224	9.3%	17.9%
e) apples	per bin	\$13.160	\$13.160	0.0%	\$13.440	2.1%	\$14.460	7.6%	\$15.370	6.3%	\$16.180	5.3%	\$15.600	-3.6%	\$17.060	9.4%	18.0%
f) pears	per bin	\$14.810	\$14.810	0.0%	\$15.130	2.2%	\$16.280	7.6%	\$17.300	6.3%	\$18.220	5.3%	\$17.560	-3.6%	\$19.210	9.4%	18.0%
g) apricots	per 1/2 bin	\$13.990	\$15.410	10.2%	\$15.460	0.3%	\$16.630	7.6%	\$17.680	6.3%	\$18.610	5.3%	\$17.940	-3.6%	\$19.620	9.4%	18.0%
h) peaches	per 1/2 bin	\$13.990	\$13.990	0.0%	\$14.290	2.1%	\$15.380	7.6%	\$16.340	6.2%	\$17.200	5.3%	\$16.580	-3.6%	\$18.130	9.3%	17.9%
i) prune plums	per 1/2 bin	\$14.810	\$14.810	0.0%	\$15.130	2.2%	\$16.280	7.6%	\$17.300	6.2%	\$18.220	5.3%	\$17.560	-3.6%	\$19.210	9.3%	17.9%
j) grapes	per 1/2 bin	\$13.990	\$13.990	0.0%	\$14.290	2.1%	\$15.380	7.6%	\$16.340	6.2%	\$17.200	5.3%	\$16.580	-3.6%	\$18.130	9.3%	17.9%
k) brussel sprouts	per pound	\$0.115	\$0.125	8.7%	\$0.128	2.4%	\$0.138	7.8%	\$0.146	5.8%	\$0.154	5.5%	\$0.149	-3.2%	\$0.163	9.4%	18.1%
l) beans	per pound	\$0.165	\$0.180	9.1%	\$0.184	2.2%	\$0.198	7.6%	\$0.210	6.1%	\$0.222	5.7%	\$0.214	-3.6%	\$0.234	9.3%	18.2%
m) peas	per pound	\$0.206	\$0.225	9.2%	\$0.230	2.2%	\$0.247	7.4%	\$0.263	6.5%	\$0.277	5.3%	\$0.267	-3.6%	\$0.292	9.4%	18.2%
n) mushrooms	per pound	\$0.181	\$0.181	0.0%	\$0.185	2.2%	\$0.199	7.6%	\$0.212	6.5%	\$0.223	5.2%	\$0.215	-3.6%	\$0.235	9.3%	18.1%
o) daffodils	per 10 stems	-	\$0.110		\$0.112	1.8%	\$0.112	0.0%	\$0.119	6.3%	\$0.125	5.0%	\$0.125	0.0%	\$0.137	9.6%	22.3%
Minimum Hourly Wage (non-farm)		\$7.000	\$7.000	0.0%	\$7.150	2.1%	\$7.150	0.0%	\$7.600	6.3%	\$8.000	5.3%	\$8.000	0.0%	\$8.750	9.4%	22.4%
BC CPI - All Items (2002=100)							94.4		96.1		97.7		102.2		113.8	(2010)	20.6%
BC CPI - Food (2002=100)							94.2		93.7		97.4		101.9		119.6	(2010)	27.0%

* Piece rates include 3.6% for Statutory Holiday Pay and 4% for Vacation Pay (daffodils excluded)

** 3.6% for Statutory Holiday Pay removed from minimum piece rates; 4% for Vacation Pay left in rates (daffodils excluded)