

INCLUDING PIECE RATE FARM WORKERS UNDER GENERAL MINIMUM WAGE

Present at meeting with Minister Lana Popham: David Fairey, Seth Klein, Anelyse Weiler

Context

The Minister of Labour decided on April 19th that there would be no increase in the regulated minimum piece rates for farm workers in 2018, that piece rates would not be increased by 11.5% until January 1, 2019, and that there would be further study of minimum piece rates.

The Minister of Labour's announcement regarding farm worker piece rates contradicts the recommendations of the Fair Wages Commission in its March 2018 report to the Minister. We understand the Ministry of Agriculture played a key role in the Minister of Labour's decision.

Position

We are deeply disappointed and perplexed that the government decided to continue excluding piece-rate farm workers from the minimum wage.

- Your government has adopted all of the FCW's other recommendations.
- Your government has also committed to improving fairness for all workers and ensuring these standards are applied evenly and enforced.
 - Excluding all farm workers under the minimum wage violates this commitment.
- A piece rate wage is **unfair to farmers** who are prepared to do the right thing and pay the minimum wage. They are forced to compete with farmers who pay a sub-minimum wage.
 - If the piece rate truly results in a higher-than-minimum wage, why not guarantee a **minimum wage floor with an incentive rate**?
 - A minimum wage floor for all farm workers would reward high-road employers.

We urge you to adopt the Fair Wages Commission's minimum wage recommendations on farm workers paid by piece rates and to promptly incorporate this into the Employment Standards Act minimum wage regulation.

Fair Wages Commission report recommendations for piece-rate farm workers

- "The FWC recognizes the significance of piece rates as an incentive system and recommends that it be maintained, but not in the way it currently operates. **The [hourly] minimum wage should be a floor and piece rates should be available as an incentive.**
 - The FWC recommends a phase in of the general minimum wage to give employers time to adjust:
 - 15% increase to all piece rates on June 1, 2018; and
 - Institute the general minimum wage on June 1, 2019.
- The FWC recommends that all farm workers receive at least the general minimum wage by June 1, 2019. This means if workers do not receive the equivalent of the general minimum wage for picking at piece rates their remuneration will be increased to equal the general minimum wage.
- The FWC recommends that in the future, once the general minimum wage is fully implemented, piece rates as an incentive be reviewed by a permanent FWC, in consultation

with industry and workers. This would be to determine whether it should be government or employers who should set the piece rates that are used as an incentive system above the general minimum wage.”

The FWC’s balanced, unanimous recommendations on a decades-long issue reflect their public consultations with farm industry, farm workers and worker advocates, and comprehensive research conducted by Prof. Mark Thompson. It is evident that farm owners and operators did not provide FWC with a compelling case for retaining minimum piece rates for hand harvesters.

Existing Research on How Farm Workers Are Affected by A Piece Rate Wage

Our research and experience over the past decade has found that farm workers are among the most vulnerable, low paid and exploited workers in BC, and that **their lesser rights and protections under the Employment Standards Act creates a second-class status in the labour market that is discriminatory and unethical.**

Prof. Thompson’s research report for the FWC revealed that none of the piece rate research conducted for the government since 1981 involved gathering information from farm workers on their experiences working under the piece rate system, and that many farm operators and farm labour contractors chose to not cooperate in the provision of farm worker pay data.

- The **piece rate system is rife with abuse, unfair to workers, and a serious administrative challenge** for the Employment Standards Branch to investigate and enforce.
- Our own research into violations of the ESA by farm labour contractors (FLC) over 10 years found that a significant proportion of all FLC violations involved failure to keep payroll records, the destruction of picking cards, and the failure to keep hand harvesting records. In half of those years, payroll violations represented 40% or more of all FLC violations.

Farm workers’ social position means they are often vulnerable to exploitation. They include older immigrant women, seasonal workers from Quebec and other provinces, and workers without a formal immigration status. The BC Farmworkers Association has argued for a minimum wage floor and incentive piece rate. At least half of farm workers are hired through the Temporary Foreign Worker Program (TFWP). **Because farmers must pay TFWP farm workers at least the minimum wage, this should be possible for all farm workers.**

Our Request

Now that your government has decided to continue with the minimum piece rates for hand harvesters, we are concerned that there is no end date on when the government will finally make this right for farm workers. We already have extensive, rigorous research on this issue. Further studies will not provide better data to guide a decision, or to make the ethical choice less controversial among businesses that would like to continue paying a sub-minimum wage.

Whatever role your Ministry has on this issue going forward, we strongly recommend that farm workers and their representatives have equal input to that of agricultural employers.

Our request: please provide a clear timeline for rectifying this injustice. When will the proposed study be done, how will it be done, and when will the government make a decision?