



THE TREATMENT OF SEASONAL MIGRANT WORKERS IN THE UK

SUMMARY

The UK struggles to keep up with demand in holiday seasons and a high level of tourism in the summer without the addition of seasonal migrant workers. Since Brexit, without the watchful eye of the Union, the UK has exploited EU nationals and begun to hire more migrant workers outside the EU. The effects of COVID-19 means that the UK now suffers from labour shortages and inevitably needs a boost via mass-hiring seasonal migrant workers. This policy brief examines the potential issues with such an increase in the employment of seasonal migrant workers in the UK.

INFORMALISATION

The informalisation of migrant workers in seasonal agriculture refers to the proliferation of non-standard work contracts and the broad idea of outsourcing or externalisation. A 2007 survey of migrant workers in Fife found that one in seven workers had not received their required National Insurance number (Migration Advisory Committee, 2013). Another survey in 2008 showed that migrant workers were recruited directly through informal labour market intermediaries and gangmasters (Migration Advisory Committee, 2013). This was despite the introduction of the Gangmaster (Licensing) Act 2004 that established the Gangmaster Licensing Authority, which seems to have had a very limited effect on regulating the informal recruitment of migrant workers. These surveys highlight the informal working arrangements rife in the agriculture industry. The popular use of zero-hour contracts increases the precarity of seasonal migrant workers as their legal worker status is difficult to describe due to no legal obligations on the employer to provide work or the worker to accept work. Agency recruitment contracts externalise risks to the worker themselves or the third-party recruitment agency. This, therefore, confuses the employer-employee relationship and obligations of migrant workers and farm managers, despite in practice, the farm managers having power over the migrant workers.

REFORM

The government should outlaw or carefully regulate precarious employment arrangements such as zero-hours and agency contracts. The government could legally require farm managers and seasonal migrant workers to be a party to contracts that lay out the detailed employer/employee relationship for seasonal agriculture migrant work.

POOR WORKING/LIVING CONDITIONS

Unsafe working conditions were a central issue that stemmed from the introduction of the agricultural visa program. According to the UK Government, over 23% of sites employing workers under the program in 2019 provided no health and safety equipment, despite being legally mandated to do so. Legislation around the area is contained within the Health and Safety at Work Act 1974, but the ability to hold companies accountable for this depends almost entirely on the ability of workers to bring claims; something seasonal migrant workers will find incomparably harder than many other classes of worker. One exception to this trend of requiring individual claims is the review of the scheme undertaken by the Government in 2019 to analyse its success, but this review had significant flaws. Only 5% of workers' conditions were reviewed, and businesses that were found to not be in compliance were simply given an obligation to amend their actions without any compensation being offered to the migrant workers who had been working there for the harvest.

REFORM

The government ought to set up a pathway by which these migrant workers are given fair access to a system to report any health and safety violations they experience during their work, and businesses found to be violating the protections should be forced to pay compensation to those workers.

WORKING TIME AND WAGES

Despite the UK implementing a salary threshold for migrant workers, which the UK government “quietly” decreased by almost 30% in 2020, Migrants are still faced with low pay, no contracts and long working hours. A study by Trust for London in 2022 found that the lack of knowledge of workers’ rights, lack of contractual knowledge, and the English Language often leads to exploitation, with some workers earning as little as £3 per hour in London.

An article by the Financial Times in 2021 draws on workers' extreme wages and working times on fruit-picking farms, where many workers would be returned to their accommodation if they did not meet picking standards. As a result, they could not earn any more money, allowing employers to avoid increasing wages to the minimum wage standard.

In addition, zero-hour contracts give seasonal migrant workers no stability, with some working over 70 hours per week. The Think Tank found that one in seven workers in the “migrant dense” hospitality sector reported not receiving any holiday pay, while 14 per cent had not received a payslip – both of which are legal rights in the UK.

The extreme wage and working time issue was highlighted by Amnesty International UK, which said that wage thresholds “have long exaggerated the privilege of people already advantaged by their relative wealth, gender and race”. Brexit has only aggravated these issues by removing free movement between the EU and the UK, further exploiting seasonal migrant workers rather than addressing the flawed policies.

REFORM

The government should remove the wage threshold for migrant workers, providing job security and a maximum working week, with additional support for those who do not understand English. Additionally, it should also be ensured everyone can rely on safety nets in times of difficulty: scrap ‘No Recourse to Public Funds’ and increase sick pay.



COMPARING LEGAL FRAMEWORKS FOR MIGRANT WORKER PROTECTION

EU framework	International framework	UK framework
• General principle of equal treatment • EU member states are responsible for enforcing free movement of services and people for seasonal migrant workers (Art 45 TFEU) • Workers outside of EU states are covered by Seasonal Worker's Directive (2014/36/EU)	UN: UN Convention on the Protection of All Migrant Workers and Members of Their Families) ILO: four migrant workers' International Labour Standards • Migration for Employment Convention (revised), 1949 (No. 97) • Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)	Seasonal Worker VISAs from Seasonal Agriculture Worker Scheme (2022): quota is 30,000 places with possibility of another 10,000 (seasonal workers in agriculture), costs £259 to apply and cannot use it to apply to a permanent job

Comparatively, the UK's framework predominantly focuses on employing as many migrant workers as possible to avoid labour shortages rather than protecting them.

GENERAL RECOMMENDATIONS



Recognise a new legal category of worker for seasonal migrant workers that equips them with statutory protection or include them in an already existing category (e.g., 'worker/employee').



Require contracts to be in the native language of the worker and specify the legal obligations between the employer and worker to increase job security.

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