

GANGMASTERS

*Relevant report: Gangmasters (follow up) (Eighth Report, Session 2003-04, HC 455, 20 May 2004)
(Government Reply: Twelfth Special Report, HC 1035, 14 September 2004)*

“In its reply, the Government stated: “The Government welcomes the support of the Committee for Jim Sheridan’s Private Member’s Bill on the licensing of gangmasters and it agrees with the Committee on the need to introduce secondary legislation as soon as possible in order to implement the licensing scheme. Now that the Bill has received Royal Assent the Government will be working closely with non Government organisations and the industry to set up the Gangmaster Licensing Authority by April 2005 so that it can commence issuing licences to Gangmasters”.

The Committee would be grateful for a progress report on the work of the Gangmaster Licensing Authority and the future that is envisaged for it, following the acceptance by Defra of the recommendations of the Hampton Review, which proposes incorporating the Authority into the Health and Safety Executive.”

Defra response

1. The Gangmasters (Licensing) Act 2004 establishes the Gangmasters Licensing Authority (GLA) to set up and operate a licensing scheme for gangmasters operating in the agricultural, shellfish gathering and associated processing and packaging sectors. The Authority will also be responsible for ensuring licence holders comply with the conditions of licences issued to them. It is intended that these arrangements should be self funding through licence fee income.
2. Once the licensing arrangements are in place, it will be illegal to operate as a labour provider in the specified areas without a licence. It will also make it an offence for a person to enter into an arrangement with an unlicensed labour provider. The Act applies to work done anywhere in the United Kingdom. The Department of Agriculture and Rural Development Northern Ireland is responsible for the application of the Act in Northern Ireland.
3. Regulations establishing the Authority were approved by Parliament in March and the Authority commenced work on 1 April. Premises have been secured in Nottingham. The Authority is run by a Board of 29 members including the Chairman. The Board has 19 members nominated by stakeholder organisations and 9 ex-officio members appointed by Government Departments involved in enforcing legislation affecting gangmasters. Paul Whitehouse has been appointed as Chairman and Mike Wilson has been appointed as Chief Executive. Members of the senior management team have been appointed and most took up their posts during March.
4. One of the Authority’s early tasks will be to establish the conditions attached to a licence. It will be consulting on this over the Summer. In parallel the Authority will develop the

arrangements for vetting applicants and the operational aspects of the licensing scheme. This will include a public register of licence holders. It is anticipated that gangmasters will be invited to apply for licences in Spring 2006. It is expected that it will take until mid 2006 to vet applicants and issue licences. If the Authority meets this target it will become illegal to operate without a licence from Summer 2006 onwards.

5. The Secretary of State will be responsible for enforcing the criminal offences under the Gangmasters (Licensing) Act. A new team of enforcement officers will be established to undertake this work. It has been agreed that GLA officers will be appointed to fulfil this role on behalf of Defra. However, enforcement activity will be funded by Defra and the costs involved will not be recovered through GLA licence fee income. This team will be created progressively from mid 2005 onwards and will be co-located with the GLA to establish a one stop shop approach to licensing, compliance and enforcement. The Authority will provide helpline facilities for labour providers and labour users and a “whistle blowing” facility for workers who are concerned about their treatment. New information sharing provisions in the legislation will provide for Government information to be passed to the Authority and vice versa. Information gateways are currently being established to underpin the licence approval, compliance and enforcement aspects of the Authority’s work.

6. Defra is responsible for putting the remaining elements of the Gangmasters Licensing legislative framework in place. We are currently consulting on regulations to establish an appeals process and regulations to exclude certain activities from the scope of the licensing arrangements. The definition of a gangmaster was drawn deliberately wide when the Act was drafted to avoid scope for unscrupulous gangmasters to circumvent the legislation. This was linked to a power to fine tune the scope of the licensing scheme through regulations. To help inform decisions on exclusions Defra is conducting further research to establish how far the incidence of serious worker exploitation and illegal activity extend up the food chain particularly into second stage processing activity.

Ethical Trading Initiative Code of Practice

7. Defra is working closely with the Ethical Trading Initiative Temporary Labour Working Group to improve business standards amongst labour providers in advance of the introduction of licensing. We have been working with the supermarkets, Association of Labour Providers and other key stakeholders to promote the Voluntary Code of Practice prepared by the Temporary Labour Working Group as a business development tool. To date over 550 labour providers have registered their intention to be audited against the code. Defra is supporting this process through a subsidy payment to help reduce the cost to labour providers.

8. The detail of the new licensing arrangements will be for the Gangmasters Licensing Authority to determine. Its proposals will be made public when it consults on the detail of the licensing arrangements later in the year.

Hampton Review

9. The Hampton Review published on 16 March recommended that over the next 2 – 4 years, 31 regulatory bodies be consolidated into seven, structured around simple thematic areas. More specifically, the Hampton Review recommended that an expanded Health and Safety Executive (HSE) should be created and that the GLA should become part of that expanded body. The Government has accepted the Hampton recommendations in full.

10. While many stakeholders accept the guiding principles set out in the Hampton Report, some have voiced concerns about the Hampton recommendation in respect of the GLA, both in its rationale and timing. Like stakeholders, the Government is keen to ensure that implementing the Hampton Report recommendations does not distract the Authority, compromising the introduction of the new licensing arrangements.

11. Defra and HSE officials are exploring with the Better Regulation Executive of the Cabinet Office the scope for achieving the GLA/HSE merger within the timetables for implementing Hampton as a whole. There will be a public consultation on the way forward before the Hampton recommendation and associated legislative changes are implemented. We will try to minimise the burden this process places on senior GLA staff in order to ensure that they are free to concentrate on the development and introduction of the licensing scheme.