
STATUTORY INSTRUMENTS

2009 No. 307

The Gangmasters (Licensing Conditions) Rules 2009

Citation and commencement

1. These Rules may be cited as the Gangmasters (Licensing Conditions) Rules 2009; they come into force on 6th April 2009.

Interpretation

2.—(1) In these Rules—

“business” includes a sole trader, a company, an unincorporated association and a partnership;

“labour user” means a person to whom workers or services are supplied;

“licence holder” means the business granted a licence;

“principal authority” means the individual responsible for the day-to-day management of a business;

“working day” means a day other than a Saturday or a Sunday, Christmas Day or Good Friday, or a date which is a bank holiday under or by virtue of the Banking and Financial Dealings Act 1971(1).

Application for a licence

3.—(1) An application for a licence must be made on the form provided by the Authority and contain such information as the Authority requires for the purposes of determining the application.

(2) The form must be signed by the principal authority of the applicant.

(3) For the purposes of determining the application, the Authority may require the applicant—

(a) to permit an inspection of the applicant’s business by the Authority or any person acting on its behalf; and

(b) to supply or make available to the Authority or any person acting on its behalf any document or information.

(4) In paragraph (3)(a), “inspection” includes conducting interviews with such persons as the Authority considers appropriate.

(5) A licence may be renewed before it expires.

Licence conditions

4.—(1) The Schedule (licence conditions) has effect.

(2) A licence is granted subject to the conditions set out in Part 2 of the Schedule.

(3) The Authority may grant a licence subject to such additional conditions as it thinks fit.

Expiry of licences on change of information

5. A licence expires if the licence holder’s registered number (if it is a company), Unique Tax Reference or Value Added Tax number change.

Fees

6.—(1) All fees are payable to the Authority.

(2) An applicant for a licence must, at the time of making the application, pay the application fee specified in the table appropriate to its annual turnover.

(3) If an inspection is required under rule 3(3)(a), the applicant must, on demand, pay the fee specified in the table appropriate to its annual turnover.

(4) A licence holder who wishes to renew its licence must, before the licence expires, pay the fee specified in the table appropriate to its annual turnover.

(5) In this rule, “annual turnover” means the turnover in the work sector regulated by the Gangmasters (Licensing) Act 2004⁽²⁾ for the previous financial year or, if there has been no such trading in that sector, on the expected turnover in that sector for the forthcoming financial year, as placed in fee band A, B, C or D in the table.

Table

<i>Annual turnover</i>	<i>Fee Band</i>	<i>Application or renewal fee</i>	<i>Inspection fee</i>
£10 million or more	A	£2,600	£2,900
From £5 million to less than £10 million	B	£2,000	£2,400
From £1 million to less than £5 million	C	£1,200	£2,150
Less than £1 million	D	£400	£1,850

Civil liability

7.—(1) Any contravention of, or failure to comply with, any provision of these Rules (including the conditions in the Schedule) by a licence holder is, so far as it causes damage, actionable.

(2) Paragraph (1) is without prejudice to any right of action or defence which exists or may be available apart from the provisions of the Gangmasters (Licensing) Act 2004 and these Rules.

(3) In paragraph (1), “damage” includes the death of, or injury to, any person (including any disease and any impairment of that person’s physical or mental condition).

Effect of prohibited or unenforceable terms and recoverability of money

8.—(1) Where any term of a contract is prohibited or made unenforceable under these Rules the contract continues to bind the parties if it is capable of continuing in existence without that term.

(2) 2004 c. 11. Section 3 sets out the work to which that Act applies.

(2) Where a labour user pays any money pursuant to a contractual term which is unenforceable by virtue of paragraph 10 of the Schedule, the labour user is entitled to recover that money.

Requirements relating to information and notices

9.—(1) Any notification, notice or document (including a record) required to be given, sent or made under these Rules must be in writing.

(2) Any notification, notice or document required or authorised by these Rules to be given or sent to any person (“the recipient”) may be given to or sent—

- (a) by delivering it to the recipient;
- (b) by leaving it at the recipient’s last known address;
- (c) by sending it by post to the recipient at that address; or
- (d) by transmitting it by means of an electronic communication, providing that the conditions in paragraph (2) are met.

(3) The conditions are that—

- (a) the recipient has stated a willingness to receive the document by means of an electronic communication;
- (b) the statement has not been withdrawn; and
- (c) the document was transmitted to an electronic address specified by the recipient.

(4) A statement may be—

- (a) limited to documents of a specified description;
- (b) require a document to be in a specified electronic form;
- (c) modified or withdrawn—
 - (i) in a case where the statement was made by being published, by publishing the modification or withdrawal in the same or in a similar manner;
 - (ii) in any other case, by giving a notice to the person to whom the statement was made.

(5) In this rule—

“electronic address” includes any number or address used for the purposes of receiving electronic communications;

“electronic communication” means an electronic communication within the meaning of the Electronic Communications Act 2000(3);

“specified” means specified in a statement made for the purposes of paragraph (2)(a).”

Revocations

10. The Gangmasters (Licensing Conditions) (No.2) Rules 2006(4) and the Gangmasters (Licensing Conditions) (No.2) (Amendment) Rules 2008(5) are revoked.

(3) 2000 c. 7.
(4) S.I. 2006/2373.
(5) S.I. 2008/638.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

16th February 2009

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