STATUTORY INSTRUMENTS

2006 No. 2373

EMPLOYMENT

The Gangmasters (Licensing Conditions) (No.2) Rules 2006

Made - - - -	*5th September 2006*
Laid before Parliament	*7th September 2006*
Coming into force - -	*1st October 2006*

The Gangmasters Licensing Authority, following consultation with the Secretary of State in accordance with section 8(3) of the Gangmasters (Licensing) Act 2004 (**a**), in exercise of the powers conferred upon it by section 8 of that Act, makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Gangmasters (Licensing Conditions) (No.2) Rules 2006 and come into force on 1st October 2006.

(2) In these Rules—

"the 2004 Act" means the Gangmasters (Licensing) Act 2004;

"applicant" means the business which applies for a licence;

"the Authority" means the Gangmasters Licensing Authority;

"business" includes a sole trader (including a person who is self-employed), 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(**b**).

Revocation

2. The Gangmasters (Licensing Conditions) Rules 2006(**c**) are revoked.

Application for a gangmaster's licence

3.—(1) The principal authority is responsible for completing the information submitted in an application for a gangmaster's licence.

(**a**) 2004 c.11.
(**b**) 1971 c.80.
(**c**) S.I. 2006/660.

(2) He and any person who is put forward to be named or otherwise specified in the licence must be a fit and proper person.

(3) He must disclose details of—

(a) any conviction which is not spent under the provisions of section 1 of the Rehabilitation of Offenders Act 1974(**a**);

(b) any judgment against him by any court; and

(c) any investigation undertaken or penalty imposed by a local authority or government department.

(4) He must disclose details of any previous trading in the sector that is regulated by the 2004 Act in the previous five years including full details of any business concerned.

(5) He, and in the case of a body corporate, all the directors, and in the case of a partnership, all the partners, must be 16 years old or older.

(6) He must inform the Authority of—

(a) the persons to be named and the positions to be otherwise specified on the licence;

(b) in the case of a body corporate, the names of the directors; and

(c) in the case of a partnership, the names of the partners.

(7) He must inform the Authority of the turnover of his business in the sector that is regulated by the 2004 Act for the previous financial year or in the case of a new business, the expected turnover.

(8) He must inform the Authority if the business has been subject to an audit under the Code of Practice of the Temporary Labour Working Group(**b**) or any other audit approved by the Authority and agree that details of that audit are disclosed by the auditor to the Authority.

(9) He must make available any records the Authority may request in support of the application to the Authority and persons acting on behalf of the Authority.

(10) Any director or partner of the business, and any person proposed to be named in the licence must provide to the Authority on demand any details specified in paragraph (3) or (4).

(11) The Authority can impose such conditions as it considers appropriate when it grants the licence and can also impose additional conditions after the grant of a licence.

Licence conditions

4.—(1) The licence holder must fulfil the following conditions.

(2) He and any person named or otherwise specified in the licence must at all times act in a fit and proper manner.

(3) He must notify the Authority within 20 working days if there are significant changes to details submitted with his application, except for the annual turnover which must be notified in accordance with paragraph (5).

(4) He must notify the Authority within 20 working days if the persons named or if the positions otherwise specified in the licence change and any new persons named must also disclose any details under rule 3(3) at the request of the Authority.

(5) He must inform the Authority, on demand, of the annual turnover of his business in the sector that is regulated by the 2004 Act for the previous financial year.

(6) He must notify the Authority as soon as reasonably practicable if he suspects his licence has been used by someone not authorised to act on behalf of that licence holder.

(7) He must provide details of his licence at the request of any constable, enforcement officer or compliance officer to that constable, enforcement officer or compliance officer.

(8) He, or a person named or otherwise specified in the licence, must provide—

(**a**) 1974 c.53.
(**b**) www.lpcode.co.uk

(a) the licence number to the labour user when he enters into arrangements to supply workers or services;

(b) on demand, the licence number to any worker supplied by him to a labour user;

(c) on demand, the licence number to any worker used by him; and

(d) on demand, details of any additional licence conditions to the labour user or any worker supplied or used by him.

(9) He must permit the Authority to inspect the business at any reasonable time.

(10) He must comply with the conditions in the Schedule as applicable.

Criteria to be considered when assessing "fit and proper"

5. When assessing whether an applicant and a licence holder is fit and proper to hold a gangmaster's licence, the Authority shall have regard to these Rules and the obligations contained in regulation 12 (2) of the Gangmasters (Licensing Authority) Regulations 2005(**a**).

New applications

6.—(1) A licence expires and must be reapplied for if any of the following details of the licence holder change—

(a) his Companies House number;

(b) his Unique Tax Reference; or

(c) his Value Added Tax number.

(2) A new application fee is payable if a licence is reapplied for after it expires.

The application fee and renewal fee

7.—(1) A licence shall last for one year and shall then expire, unless rule 6 applies or the licence is revoked by the Authority.

(2) The fee payable in relation to the application for a grant of a licence is payable with the application.

(3) The application fee is based on the turnover, or expected turnover, of the business in the sector that is regulated by the 2004 Act for the previous financial year as placed in bands A, B, C or D in the table below.

(4) When an application for a licence for gathering shellfish is received on or before 30th November 2006, the application fee is reduced by £250.

(5) The renewal fee is based on the turnover of the business in the sector that is regulated by the 2004 Act for the previous financial year as placed in bands A, B, C or D in the table below.

(6) The full renewal fee must be paid by the expiry date.

(7) Application fees and renewal fees are not refundable.

(8) These fees are subject to any relevant taxes and duties.

Licence fees payable

Annual turnover of business	*Fee Band*	*Annual Fee*
£10 million +	A	£4,000
£5 – 10 million	B	£2,000
£1 – 5 million	C	£750
Less than £1 million	D	£250

(**a**) S.I. 2005/448.

Application inspections

8.—(1) The applicant must permit, and pay for, an inspection of the business as part of the application process if the Authority considers it necessary.

(2) The fee for an application inspection as provided for in paragraph (1) is based on the fee bands below.

(3) These fees are subject to any relevant taxes and duties.

Annual turnover of business	*Fee Band*	*Fee*
£10 million +	A	£2,500
£5 – 10 million	B	£2,100
£1 – 5 million	C	£1,850
Less than £1 million	D	£1,600

Civil liability

9.—(1) Without prejudice to—

(a) any right of action; or

(b) any defence,

which exists or may be available apart from the provisions of the 2004 Act and these Rules, contravention of, or failure to comply with any of the provisions of the Act or of these Rules by a licence holder shall, so far as it causes damage, be actionable.

(2) In this paragraph, "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

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

(2) Where a labour user pays any money pursuant to a contractual term which is unenforceable by virtue of paragraph 8 of the Schedule to these Rules, the labour user is entitled to recover that money.

Electronic and other communications

11.—(1) Except where otherwise provided, any requirement in these Rules—

(a) to notify or give notice to a person of any matter;

(b) to give or send a document to a person;

(c) to inform a person or provide a person with information; or

(d) to make enquiries and to receive answers,

may be satisfied by one of the means in paragraph (3).

(2) Any reference in these Rules to a person giving consent or obtaining another person's consent to something shall be construed as a reference to giving or receiving that consent by one of the means in paragraph (3).

(3) The means referred to in paragraphs (1) and (2) are —

(a) giving or receiving in person the notice, document, information, enquiry, answer or consent in paper form; or

(b) sending, transmitting or receiving the notice, document, information, enquiry, answer or consent by post, facsimile or by other electronic means to an address provided for that purpose by the intended recipient,

provided that any information so given, sent or transmitted is in a form which is clearly legible by the intended recipient.

Paul Whitehouse
Chairman
5th September 2006 Gangmasters Licensing Authority

SCHEDULE

Rule 4(10)

Licence Conditions (as applicable)

Definition of connected person

1. For the purposes of this Schedule a person is considered to be connected with —

(a) any individual who employs him or is his employee;

(b) any person who is in partnership with him;

(c) any company of which he is a director or other officer and any company connected with that company;

(d) in the case of a company—

(i) any person who is a director or other officer of that company;

(ii) any subsidiary or holding company both as defined in section 736 of the Companies Act 1985(**a**), of that company and any person who is a director or other officer or an employee of any such subsidiary or holding company; and

(iii) any company of which the same person or persons have control; and

(e) in the case of a trustee of a trust, a beneficiary of the trust and any person to whom the terms of the trust confer a power that may be exercised for that person's benefit.

Prohibition on charging fees

2. A licence holder may not charge a fee to a worker for any work-finding services.

Prohibition on requiring workers to use additional services

3. A licence holder may not make the provision of work-finding services conditional upon the worker—

(a) using other services; or

(b) hiring or purchasing goods,

whether provided by the licence holder or by any person with whom the licence holder is connected.

(**a**) 1985 c.6; section 736 was substituted by the Companies Act 1989 (c40), section 144(1).

Restriction on detrimental action relating to workers working elsewhere

4.—(1) A licence holder may not (whether by the inclusion of a term in a contract with a worker or otherwise)—

(a) subject or threaten to subject a worker to any detriment on the ground that—

(i) the worker has terminated or given notice to terminate any contract between the worker and the licence holder; or

(ii) the worker has taken up or proposes to take up employment with any other person; or

(b) require the worker to notify the licence holder, or any person with whom he is connected, of the identity of any future employer.

(2) For the avoidance of doubt, the following shall not constitute a detriment for the purposes of this paragraph—

(a) the loss of any benefits to which the worker might have become entitled had he not terminated the contract;

(b) the recovery of losses incurred by a licence holder as a result of the failure of the worker to perform agreed work; or

(c) a requirement in a contract with the licence holder for the worker to give a reasonable period of notice to terminate the contract.

Restriction on providing workers in industrial disputes

5.—(1) A licence holder must not introduce or supply a worker to a labour user to perform—

(a) the duties normally performed by a worker who is taking part in a strike or other industrial action ("the first worker"); or

(b) the duties normally performed by any other worker employed by the labour user and who is assigned by the labour user to perform the duties normally performed by the first worker,

unless in either case the licence holder does not know, and had no reasonable grounds for knowing, that the first worker is taking part in a strike or other industrial action.

(2) This paragraph does not apply if, in relation to the first worker, the strike or other industrial action is an unofficial strike or other unofficial industrial action for the purposes of section 237 of the Trade Union and Labour Relations (Consolidation) Act 1992(**a**).

Restriction on paying workers' remuneration

6.—(1) A licence holder shall not in respect of a worker whom he has introduced or supplied to a labour user who has then employed the worker—

(a) pay or make arrangements to pay to the worker his remuneration arising from the employment with the labour user; or

(b) introduce or refer the labour user to any person with whom the licence holder is connected with a view to that person paying to or making arrangements for such a payment to the worker.

(2) This paragraph does not apply where the labour user and the licence holder are connected.

Restriction on charges to labour users

7.—(1) Any term of a contract between a licence holder and a labour user which is contingent on a worker taking up employment with the labour user or working for the labour user pursuant to being supplied by another licence holder is unenforceable by the licence holder in relation to that

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(**a**) 1992 c 52.

worker, unless the contract provides that instead of a transfer fee the labour user may by notice to the licence holder elect for a hire period of such length as is specified in the contract during which the worker will be supplied to the labour user—

(a) in a case where there has been no supply, on the terms specified in the contract; or

(b) in any other case, on terms no less favourable to the labour user than those which applied immediately before the licence holder received the notice.

(2) In sub-paragraph (1), "transfer fee" means any payment in connection with the worker taking up employment with the labour user or in connection with the worker working for the labour user pursuant to being supplied by another licence holder.

(3) Any term as mentioned in this paragraph is unenforceable where the licence holder does not supply the worker to the labour user, in accordance with the contract, for the duration of the hire period referred to in this paragraph unless the licence holder is in no way at fault.

(4) Any term of a contract between a licence holder and a labour user which is contingent on any of the following events, namely a worker—

(a) taking up employment with the labour user;

(b) taking up employment with any person (other than the labour user) to whom the labour user has introduced him; or

(c) working for the labour user pursuant to being supplied by another licence holder,

is unenforceable by the licence holder in relation to the event concerned where the worker begins such employment or begins working for the labour user pursuant to being supplied by another licence holder, as the case may be, after the end of the relevant period.

(5) In sub-paragraph (4), "the relevant period" means whichever of the following periods ends later, namely—

(a) the period of eight weeks commencing on the day after the day on which the worker last worked for the labour user pursuant to being supplied by the licence holder; or

(b) subject to sub-paragraph (6), the period of 14 weeks commencing on the first day on which the worker worked for the labour user pursuant to the supply of that worker to that labour user by the licence holder.

(6) In determining for the purposes of sub-paragraph (5)(b) the first day on which the worker worked for the labour user pursuant to the supply of that worker to that labour user by the licence holder, no account must be taken of any supply that occurred prior to a period of more than 42 days during which that worker did not work for that labour user pursuant to being supplied by that licence holder.

(7) A licence holder must not—

(a) seek to enforce against the labour user, or otherwise seek to give effect to, any term of a contract which is unenforceable by virtue of sub-paragraph (1), (3) or (4); or

(b) otherwise directly or indirectly request a payment to which by virtue of this paragraph the licence holder is not entitled.

Prohibition on withholding payment to workers

8. A licence holder may not (whether by means of the inclusion of a term in a contract with the worker or otherwise) withhold or threaten to withhold the whole or any part of any payment due to the worker in respect of any work done by the worker on any of the following grounds—

(a) non-receipt of payment from the labour user;

(b) the worker's failure to prove that he has worked during a particular period of time, provided that this provision shall not prevent the licence holder from satisfying himself by other means that the worker worked for the particular period in question;

(c) the worker not having worked during any period other than that to which the payment relates; or

(d) any matter within the control of the licence holder.

Requirement to obtain agreement to terms with workers

9.—(1) Before supplying a worker to a labour user, a licence holder must agree the terms which will apply between the licence holder and the worker including—

(a) the type of work the licence holder will find or seek to find for the worker; and

(b) the terms referred to in paragraph 10.

(2) Subject to sub-paragraph (3), a licence holder must record all terms in writing, where possible in one document, and give the worker the written terms before he provides any services to the worker.

(3) Sub-paragraph (2) shall not apply if the worker has been given a written statement of particulars of employment in accordance with Part I of the Employment Rights Act 1996(**a**).

(4) Terms referred to in sub-paragraph (2) may only be varied by written agreement, a copy of which must be provided to the worker as soon as possible and in any event no later than the end of the fifth working day following the day the variation was agreed.

(5) A licence holder may not make the continued provision of any services by him to a worker conditional on the agreement by the worker to any variation.

Content of terms with workers

10. The terms to be agreed in accordance with paragraph 9 shall include—

(a) whether the worker is or will be supplied by the licence holder under a contract of service or a contract for services, and in either case, the terms and conditions which will apply;

(b) an undertaking that the licence holder will pay the worker in respect of work done by him, whether or not the licence holder is paid by the labour user in respect of that work;

(c) the length of notice of termination which the worker is obliged to give the licence holder, and entitled to receive from him, in respect any particular assignment;

(d) either—

(i) the rate of remuneration payable to the worker; or

(ii) the minimum rate of remuneration the licence holder reasonably expects to achieve for the worker;

(e) details of the intervals at which remuneration will be paid; and

(f) details of any entitlement to annual holidays and to payment in respect of such holidays.

Requirement to obtain agreement to terms with labour users

11.—(1) Before first providing services (other than the provision of information in the form of a publication) to a labour user, a licence holder must agree the terms which will apply between the licence holder and labour user, including—

(a) details of any fee which may be payable by the labour user to the licence holder including—

(i) the amount or method of calculation of such fee; and

(ii) the circumstances, if any, in which refunds or rebates are payable to the labour user, the scale of such refunds or rebates and, if no refunds or rebates are payable, a statement to that effect; and

(b) details of the procedure to be followed if a worker introduced or supplied to the labour user proves unsatisfactory.

(**a**) 1996 c.18.

(2) The licence holder must record the terms in a single document and send a copy to the labour user as soon as reasonably practicable.

(3) If the licence holder and the labour user agree to any variation in the terms set out in the document referred to in sub-paragraph (2), the licence holder must provide a document containing details and the date of the variation as soon as is reasonably practicable.

Information to be obtained from a labour user

12. A licence holder may not supply a worker to a labour user unless he has obtained the following information—

(a) the identity of the labour user and, if applicable, the nature of the labour user's business;

(b) the date on which the labour user requires a worker to commence work and the duration, or likely duration, of the work;

(c) the position which the labour user seeks to fill, including the type of work a worker in that position would be required to do, the location at which and the hours during which he would be required to work;

(d) any risks to health or safety known to the licence holder or labour user and the steps the licence holder or labour user has taken to prevent or control such risks;

(e) the experience, training, qualifications and any authorisation which the licence holder or labour user considers are necessary, or which are required by law or by any professional body, for a worker to possess in order to work in the position; and

(f) any expenses payable by or to the worker.

Confirmation to be obtained about a worker

13. A licence holder may not supply a worker to a labour user unless he has obtained confirmation—

(a) of the identity of the worker;

(b) that the worker has the experience, training, qualifications and any authorisation which the licence holder or labour user considers are necessary, or which are required by law or by any professional body, to work in the position which the labour user seeks to fill; and

(c) that the worker is willing to work in the position which the labour user seeks to fill.

Steps to be taken for the protection of the worker and the labour user

14.—(1) Before any work is commenced, a licence holder must ensure that he has—

(a) taken all such steps as are reasonably practicable to ensure that the worker and the labour user are each aware of any requirements imposed by law, or by any professional body, which must be satisfied; and

(b) without prejudice to any of his duties under any enactment or rule of law in relation to health and safety at work, made all such enquiries as are reasonably practicable to ensure that it would not be detrimental to the interests of the worker or the labour user for the worker to work for the labour user in the position which the labour user seeks to fill.

(2) Where a licence holder receives or obtains information which gives him reasonable grounds to believe that a worker is unsuitable for the position with a labour user for which the worker is being supplied, he must without delay—

(a) inform the labour user and any intermediaries of that information; and

(b) end the supply of that worker to the labour user.

(3) Where a licence holder receives or obtains information which indicates that a worker may be unsuitable for the position concerned, but where that information does not give reasonable grounds to believe that the worker is unsuitable, he must without delay—

(a) inform the labour user and any intermediaries of that information; and

(b) as soon as possible make such further enquiries as are reasonably practicable as to the suitability of the worker for the position concerned, and inform the labour user and any intermediaries of the enquiries made and any further information obtained.

(4) Where, as a result of the enquiries made under sub-paragraph (3) a licence holder has reasonable grounds to believe that the worker is unsuitable for the position concerned he must, without delay—

(a) inform the labour user and any intermediaries of that information; and

(b) end the supply of that worker to the labour user.

(5) In this paragraph "without delay" means on the same day, or where not reasonably practicable, the next working day.

Provision of information to workers and labour users

15.—(1) A licence holder must ensure that at the same time as—

(a) he supplies or proposes to supply a particular worker to a labour user—

(i) he gives to the labour user the information about the worker obtained in accordance with paragraph 13; and

(ii) informs the worker whether he will be supplied under a contract of service or a contract for services;

(b) he offers a worker a position with a labour user—

(i) he gives to the worker (whether orally or otherwise) all information he has been provided with under paragraph 12; and

(ii) if a rate of remuneration has not been agreed with the labour user he informs the worker (whether orally or otherwise) of the rate of remuneration he will pay him to work in that position.

(2) Where any of the information referred to in sub-paragraph (1) was given orally, the licence holder must provide it in paper form or by electronic means as soon as possible and in any event within three working days.

(3) Sub-paragraph (1) shall not apply where—

(a) the worker has performed the same type of work with the labour user during the previous five working days; and

(b) the information required is the same as the information which the worker and labour user have already received,

unless the worker or labour user request otherwise.

Situations where more than one licence holder is involved

16.—(1) A licence holder ("A") may not enter into any assignment or sub-contract with another licence holder ("B") for B to supply workers either directly or indirectly to a labour user unless—

(a) A has confirmed to the labour user that both A and B are licensed and has provided details of those licences to the labour user as required by rule 4(8); and

(b) A has the prior consent of the labour user and the worker to any assignment or sub-contract.

(2) A may not assign or sub-contract any of his obligations under any contract or arrangement with a worker or labour user to B unless the terms upon which those obligations are assigned or sub-contracted are in writing, where possible recorded in a single document.

Situations where workers are provided with travel or required to live away from home

17.—(1) A licence holder may not arrange for a worker to take up a position other than as a labour user's employee (within the meaning of section 230(1) of the Employment Rights Act

1996) if, in order to take up that position, the worker must occupy accommodation other than his home, unless the conditions in sub-paragraph (2) are satisfied.

(2) The conditions referred to in sub-paragraph (1) are that the licence holder has taken all reasonably practicable steps to ensure that—

(a) suitable accommodation will be available for the worker and details have been provided to the worker, including the terms on which it is offered and any cost; and

(b) suitable arrangements have been made for the worker to travel to such accommodation.

(3) Where a worker is—

(a) to be supplied to a labour user other than as the labour user's employee (within the meaning of section 230(1) of the Employment Rights Act 1996), or is under the age of 18; and

(b) the licence holder, labour user or any intermediary has arranged free travel or payment of fares for the worker's journey to the place of work,

the licence holder must, if the work does not start or upon it ending, either arrange free travel for the worker's return journey, pay his return fare or obtain an undertaking from the labour user or any intermediary to arrange free travel or pay the return fare.

(4) The licence holder must give notice to the worker setting out the details of the free travel or payment of fares including any conditions on which the same are offered.

(5) If a labour user or intermediary does not comply with an undertaking given under sub-paragraph (3), the licence holder must either arrange free travel for the return journey of the worker or pay his fare.

(6) If a worker is under the age of 18, a licence holder may not arrange for him to any take up a position which will require him to live away from home unless the parent or guardian of the worker has consented.

(7) If a worker is loaned money by the licence holder, the labour user or any intermediary to meet travel or other expenses in order to take up a position—

(a) he must be provided with details in writing of the amount loaned and repayment terms; and

(b) he may not be asked to repay a greater sum than the amount loaned.

Confidentiality

18.—(1) Except as provided in this Schedule, a licence holder may not disclose information relating to a worker, without the prior consent of that worker, except—

(a) as required by paragraph 14 of this Schedule;

(b) for the purposes of any legal proceedings (including arbitration);

(c) in the case of a worker who is a member of a professional body, to the professional body of which he is a member;

(d) for the purpose of the apprehension or prosecution of offenders;

(e) for the purpose of national security; or

(f) as required by any enactment.

(2) A licence holder may not disclose information relating to a worker to any person for whom the worker is currently working without that worker's prior consent, which has not by the time of such disclosure been withdrawn, and may not make the provision of any services to that worker conditional upon such consent being given or not withdrawn.

Records relating to workers

19. Every licence holder must record, as soon as reasonably practicable, the following details in relation to every application received from a worker—

(a) the date terms are agreed between the licence holder and the worker;

(b) the worker's name, address and, if under 22, date of birth;

(c) any terms which apply or will apply between the licence holder and the worker, and any document recording any variation;

(d) any relevant details of the worker's training, experience or qualifications and any authorisation to undertake particular work (and copies of any documentary evidence of the same obtained by the licence holder);

(e) details of any requirements specified by the worker in relation to taking up employment;

(f) the names of labour users or sub-contractors to whom the worker is supplied;

(g) details of any resulting engagement and the date from which it takes effect;

(h) the date the contract was terminated (where applicable); and

(i) details of any enquiries made under paragraphs 13 and 14 about the worker and the position concerned, with copies of all relevant documents and dates they were received or sent.

Records relating to labour user

20. Every licence holder must record, as soon as reasonably practicable, the following details relating to labour users—

(a) the date terms are agreed between the licence holder and the labour user;

(b) the labour user's name and address, and location of the place of work if different;

(c) details of any sub-contractors;

(d) details of the position the labour user seeks to fill;

(e) the duration or likely duration of the work;

(f) any experience, training, ability, qualifications, or authorisation required by the licence holder or labour user by law, or by any professional body; and any other conditions attaching to the position the labour user seeks to fill;

(g) the terms offered in respect of the position the labour user seeks to fill;

(h) a copy of the terms between the licence holder and the labour user, and any document recording any variation;

(i) the names of workers supplied;

(j) details of enquiries under paragraphs 12 and 14 about the labour user and the position he seeks to fill, with copies of all relevant documents and dates of their receipt;

(k) the details of each resulting engagement and date from which it takes effect; and

(l) dates of requests by the licence holder for fees or other payment from the labour user and of receipt of such fees or other payments, and copies of statements or invoices.

Records relating to dealings with other licence holders

21. Every licence holder must record, as soon as reasonably practicable, the following details relating to other licence holders—

(a) the names of any other licence holders whose services the licence holder uses, and details of enquiries made to ascertain that the other licence holder is licensed; and

(b) the date and copy of any agreement made under paragraph 16 (2).

General provisions relating to records

22.—(1) A licence holder must keep all records for at least one year.

(2) The records may be kept at any premises a licence holder uses for or in connection with the carrying on of his business, or elsewhere; if kept elsewhere, the licence holder must ensure that

they are readily accessible and capable of being delivered to the licence holder's premises in the United Kingdom or to the Authority within two working days.

(3) All records may be kept in written or electronic form.

Conditions which apply to gathering shellfish

23.—(1) This paragraph only applies to shellfish gatherers.

(2) The licence holder must ensure that there is a competent supervisor for each individual group of workers and this supervisor must be named on the licence.

(3) The supervisor must—

(a) accompany the workers at all times to the work area;

(b) be familiar with the use of any equipment or procedures used when gathering shellfish or accessing the work area; and

(c) be able to communicate directly with every one of the group of workers.

(4) The licence holder or the supervisor must notify the Maritime and Coastguard Agency Rescue and Coordination Centre of—

(a) the licence holder's licence number;

(b) contact details for the licence holder or supervisor;

(c) the number of workers in the group;

(d) where the work area is; and

(e) the times the group is going out and returning from the work area.

(5) For the purposes of this paragraph, the "work area" means the place where the shellfish are gathered.

(6) If a fisheries permit or licence is required to gather shellfish the licence holder must ensure that workers comply with the provisions of that permit or licence.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules establish the procedure for licensing gangmasters covered by the provisions of the Gangmasters (Licensing) Act 2004 (the 2004 Act), and the conditions that will apply to the licences. The Gangmasters (Licensing Conditions) Rules 2006 are revoked and replaced by these Rules.

Rule 3 specifies the information to be provided by an applicant.

Rule 4 and the Schedule specify the licence conditions that apply to licence holders.

One of the requirements of obtaining or keeping a licence is that the licence holder is fit and proper. Rule 5 provides that an applicant or licence holder is fit and proper if he complies with the criteria set out in these Rules and with the obligations contained in regulation 12 (2) of the Gangmasters (Licensing Authority) Regulations 2005 which establish a general principle governing the determination of criteria assessing the fitness of applicants for licences and others and the terms of licence conditions.

Rule 6 specifies when a new application will be required.

Rule 7 prescribes the licence fee, the renewal fee and rule 8 the charge for inspection at the point of application.

The Schedule contains licence conditions which will apply to licence holders if applicable to them. Paragraph 23 of the Schedule contains conditions which will apply only to shellfish gatherers.

A partial Regulatory Impact Assessment of the effect that this instrument will have on the costs of the shellfish business has been prepared and has been placed in the library of each House of Parliament. Copies of the original Regulatory Impact Assessment may be obtained from the Gangmasters Licensing Authority, PO Box 8538, Nottingham, NG8 9AF.

STATUTORY INSTRUMENTS

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EMPLOYMENT

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