

TLWG Update for Labour Providers March 2006

ACTS AND REGULATIONS

Does the Gangmasters Licensing Act affect me?

The Gangmasters (Licensing) Act 2004 establishes the Gangmasters Licensing Authority (GLA) to set up and operate the licensing scheme for Labour Providers (LPs) operating in the horticulture, forestry, agriculture, shellfish gathering and associated processing and packaging sectors and fish processing. Once the licensing arrangements are in place the Act will prohibit anyone from acting as a LP 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 LP.

Am I included within the scope of the Act?

The Act covers LPs operating in the horticulture, forestry, agriculture, shellfish gathering and associated processing and packaging sectors. Any LP providing workers to the food industry, including primary and secondary processing, will need to apply for a Licence. This includes factories producing ready meals, canning food for human consumption, bakeries and all other food production units. It does not include distribution only establishments. Implementation of licensing in relation to the supply and use of labour to gather shellfish will commence on 1 October.

OFFENCES

It is anticipated that the offences will be brought in by the dates shown below but that the Government will not take a final decision on this until GLA progress in issuing licences is clearer.

From October 2006 it will be an offence to:

- operate as a LP providing labour to the food industry without a licence

From December 2006 it will be an offence for businesses in the food industry to:

- use an unlicensed LP

The maximum penalty for operating without a licence is a prison sentence of 10 years and a fine. The maximum penalty for using workers or services by an unlicensed LP is a prison sentence of 51 weeks and a fine.

A Labour Provider will commit an offence if they hold:

- a relevant document that is known or believed to be false
- a relevant document obtained by deception and known or believed to have been so obtained
- a relevant document that relates to someone else with the intention of causing a third party to believe that the person in possession of the documentation or another person is a licensed LP.

It will also be an offence to obstruct a GLA officer in the course of their duties.

The GLA will be working closely with a range of Government Departments and Enforcement Agencies to ensure that all legal requirements are met and enforced in the licensable sectors.

HOW DO I APPLY FOR A LICENCE?

ALL Labour Providers (LPs) will need to apply and obtain a licence if they wish to operate in any of the sectors covered by the Act. You will be able to apply for a licence from the GLA after April 6th 2006. Details on how to apply for a licence will be issued closer to the time. There are 2 routes for application both of which are subject to successful compliance checks from other Government departments:

1. Apply direct to the GLA and undergo an application inspection
2. Apply with a 'successful' TLWG audit which does not require a GLA application inspection

In both situations, your business will be assessed for its compliance with the GLA Licensing standards. A copy of this is available from the GLA and TLWG website: www.gla.gov.uk

OPTION 1: Apply direct to the GLA and undergo an application inspection

This option is not available till April 6th 2006. You will be able to apply for a licence either online or by phoning 0845 602 5020. If you do not have a successful TLWG audit, you will need to undergo a GLA application inspection to assess your compliance with the GLA Licensing standards. You will have to pay for this inspection in addition to your licensing fee. The cost is banded depending on your company turnover in the regulated sectors (see table below).

OPTION 2: Apply with a 'successful' TLWG audit which does not require a GLA application inspection

If you undergo a TLWG audit before 12th May 2006, you can use this audit as part of your application for a licence. The GLA will contact you to notify whether they have classified your audit as successful and may arrange a free verification visit. During the verification visit, a GLA inspector will check to see if you have corrected the non-compliances raised during your TLWG audit that are relevant to the GLA licensing standards. If you demonstrate that you have corrected these to a satisfactory standard, you will be notified that your TLWG audit is now 'successful'.

If you are unable to demonstrate you have corrected the relevant TLWG non-compliances, your TLWG audit will be classified as unsuccessful and you will have to apply using option 1.

A GLA verification visit is free of charge.

If you have had a successful Temporary Labour Working Group Audit and apply before 31st May 2006 you will receive a discount of £250 off the licence fee.

HOW MUCH DOES A LICENCE COST?

The licence fee is banded. The amount you pay depends on your company's turnover in the last financial year. The bands are detailed in the table below and exclude the cost of an application inspection (if applicable to your business – see below):

Size of business	Fee Band	Application Fee £
£10m+	A	4,000
£5-10m	B	2,000
£1-5m	C	750
>£1m	D	250

If a labour provider has had a successful Temporary Labour Working Group Audit and applies before 31 May 2006 they will receive a discount of £250 off the application fee. So if your turnover is less than £1m, you will get your licence for free.

If applicants have not had a TLWG audit, they will be required to have a GLA application inspection in addition to the licence fee. The costs for this are based on turnover in the regulated sectors but are similar to those of the TLWG audit. This inspection will be based on the GLA licensing standards which will be published shortly on the GLA website (www.gla.gov.uk). The application inspection fee bands are:

Size of business	Fee Band	Application Inspection Fee £
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£10m+	A	2,500
£5-10m	B	2,100
£1-5m	C	1,850
>£1m	D	1,600

WHY SHOULD I APPLY FOR A TLWG AUDIT?

The TLWG is a voluntary scheme supported by most of the UK supermarkets and trade unions. Undertaking a TLWG audit offers your business a number of advantages:

- Meeting customer expectations – Shows your customers you are engaged in the process and are preparing for legislation
- Time for Improvement – a TLWG audit will help you identify any issues in your business and give you put these right before you apply for your licence. This will increase your chances of a successful licensing application.
- Discount – all LPs who have a successful TLWG audit and apply for a licence before May 31st 2006, are entitled to a £250 discount on your application fee. If your turnover is less than £1 million (within those sectors to be regulated by the GLA), this discount will offset your licence fee so you will not need to pay anything.
- Cost of application inspection – in addition to the above benefits, if you have a TLWG audit, it may not necessarily cost you more as a TLWG audit costs on average £1500 which is comparable to the cost of a GLA application inspection.

How do I book a TLWG audit?

If you would like to have a TLWG audit we would advise you to register on the website (if you have not already done so): www.lpcode.co.uk and book an audit with one of the auditors as a matter of urgency. A complete list of auditors can be found on the 'auditors' page of the website. The TLWG cannot carry out any audits after May12th 2006 and the auditors have a limited capacity so would urge you to book soon. We will notify LPs when auditors are fully booked.

If you do not want to book an audit, we would still urge you to register on the website as this will mean that you will receive any updates/information that we send out to LPs in the following crucial months.

If you have any questions or require further assistance, please contact us:

www.lpcode.co.uk

email: enquiries@lpcode.co.uk

Telephone: 020 7242 6777

Other sources of help:

GLA website: www.gla.gov.uk