STATUTORY INSTRUMENTS

2015 No. 805

EMPLOYMENT

The Gangmasters (Licensing Authority) Regulations 2015

Made - - - - 19th March 2015

Coming into force in accordance with regulation 1(1)

The Secretary of State, in exercise of the powers conferred by sections 1(5) and 25(2) of the Gangmasters (Licensing) Act 2004(**1**), makes the following Regulations.

In accordance with paragraph 5 of Schedule 2 to the Gangmasters (Licensing) Act 2004 the Secretary of State has consulted the Department of Agriculture and Rural Development in Northern Ireland.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Gangmasters (Licensing Authority) Regulations 2015 and come into force on the day after the day on which they are made.

(2) In these Regulations—

"the 1973 Act" means the Employment Agencies Act 1973(**2**);

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

"the Board" means the Board established under regulation 3(1);

"the chairman" means the chairman appointed pursuant to regulation 4(2).

Body corporate and application of seal

2.—(1) The Authority is a body corporate.

(2) The application of the seal of the Authority must be authenticated by the signature of—

(a) the chairman; or

(b) any other person who has been authorised by the Board (whether generally or specifically) for that purpose.

(3) A document purporting to be—

(a) duly executed by the Authority under its seal,

(**1**) 2004 c.11.
(**2**) 1973 c.35.

(b) issued by the Authority, or

(c) signed on its behalf,

must be received in evidence and must, unless the contrary is proved, be taken to be so executed, issued or signed.

Role of the Board

3.—(1) The Authority must have a Board which must direct its affairs.

(2) The Board must ensure that the Authority properly discharges its functions and complies with the requirements of these Regulations.

(3) The Board may determine its own procedures.

(4) If the Board establishes advisory committees, whose members are not members of the Board, it must take into account any recommendations made by any such committee.

(5) The validity of any proceedings of the Board, or any of its committees, shall not be affected by—

(a) any vacancy among members of the Board or its committees;

(b) any vacancy in the office of the chairman of the Board;

(c) any defect in the appointment of any member of the Board;

(d) any defect in the appointment of the chairman of the Board; or

(e) any defect in the appointment of any member or chairman of a committee.

Membership of the Board

4.—(1) The Board must consist of—

(a) a chairman; and

(b) no more than eight additional members.

(2) The chairman must be appointed by the Secretary of State in consultation with the Minister of Agriculture and Rural Development in Northern Ireland.

(3) The other members of the Board must be appointed by the Secretary of State.

Tenure of office and remuneration of the Board

5.—(1) Subject to the provisions of this regulation, each member of the Board must hold and vacate office in accordance with the terms of their appointment.

(2) At the end of their period of appointment, each member of the Board must continue to hold office until the appointment of their successor takes effect.

(3) A member of the Board may resign by giving notice in writing to the Secretary of State.

(4) The Secretary of State may remove a member of the Board from office if—

(a) they have without reasonable excuse failed adequately to carry out their functions;

(b) without reasonable excuse they have been absent from three consecutive meetings of the Board;

(c) they have been convicted (whether before or after their appointment) of a criminal offence and that conviction is not spent for the purposes of the Rehabilitation of Offenders Act 1974(**3**);

(**3**) 1974 c.53.

(d) they are an undischarged bankrupt or their estate has been sequestrated and it has not been discharged, or they have made an arrangement with their creditors, or they are subject to a bankruptcy restrictions order;

(e) they are disqualified from acting as a company director;

(f) they have failed to comply with the terms of their appointment;

(g) they have had a licence under the 2004 Act refused or revoked, and—

(i) the time for lodging any appeal has passed; or

(ii) or an appeal has been unsuccessful;

(h) they are otherwise unable or unfit to carry out their functions.

(5) The Secretary of State may suspend a member of the Board if they have had a licence under the 2004 Act refused or revoked.

(6) The Secretary of State must consult the Minister of Agriculture and Rural Development in Northern Ireland before removing the chairman pursuant to paragraph (4).

(7) The Authority must pay to the members of the Board, and any persons invited to attend a meeting of the Board, such remuneration and allowances as the Secretary of State may determine.

Employees of the Authority

6.—(1) The Authority must employ a chief executive who must be responsible to the Board for carrying out the Authority's functions and the management of its employees.

(2) The Board may only appoint a chief executive—

(a) with the consent of the Secretary of State; and

(b) on terms and conditions approved by the Secretary of State.

(3) The Authority may employ such other employees as it thinks fit on terms and conditions determined by the Board and approved by the Secretary of State.

Remuneration etc of employees, agents or consultants

7.—(1) The Authority must pay its employees, agents or consultants such remuneration and allowances as it may, with the consent of the Secretary of State, determine.

(2) The Authority must—

(a) pay, or make payments in respect of, such pensions or gratuities to or in respect of any of its employees or former employees as it may, with the consent of the Secretary of State, determine; and

(b) provide for such schemes (whether contributory or not) as it may determine, with the consent of the Secretary of State, for the payment of pensions or gratuities to or in respect of its employees or former employees.

(3) References in paragraph (2) to pensions and gratuities include references to pensions and gratuities by way of compensation to or in respect of employees who suffer loss of employment or loss or diminution of emoluments or other recoverable loss arising from or in connection with their employment.

Licensing functions and the register of licences

8.—(1) For the purposes of the exercise of its functions under sections 1, 7, 8 and 9 of the 2004 Act and rules made under section 8, in determining—

(a) the criteria for assessing the fitness of an applicant for a licence or a specified person, and