STATUTORY RULES OF NORTHERN IRELAND

2014 No. 23

EMPLOYMENT

The Gangmasters Licensing (Exclusions) Regulations (Northern Ireland) 2014

Made - - - -	*5th February 2014*
Coming into operation	*7th March 2014*

The Department of Agriculture and Rural Development [F1] makes these Regulations in exercise of the powers conferred by section 6(2) of the Gangmasters (Licensing) Act 2004 [F2]:

Annotations:

F1 Formerly the Department of Agriculture for Northern Ireland, see Article 3(4) of S.I.1999/283 (N.I 1)

F2 2004 c.11 ; see modifications to section 6(2) by paragraphs 8, 19(1) and 19(2) of Schedule 2

Citation and Commencement

1. These Regulations may be cited as the Gangmasters Licensing (Exclusions) Regulations (Northern Ireland) 2014 and shall come into operation on 7 March 2014.

Interpretation

2.—(1) In these Regulations—

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

"the Authority" means the Gangmasters Licensing Authority;

"the Department" means the Department of Agriculture and Rural Development;

"the Education Orders" have the same meaning as in Article 2 of the Education and Libraries (Northern Ireland) Order 1986 [F3];

"licence" means a licence granted by the Authority under section 7(1) of the Act authorising a person to act as a gangmaster.

(2) The Interpretation Act (Northern Ireland) 1954 [F4] shall apply to these Regulations as it applies to an Act of the Assembly.

Annotations:

F3 S.I
.
1986 No. 594
(N.I.3);
Article 2
was amended by
S.I. 1998/1759 (N.I.13)

F4 1954 c.33 (N.I.)

Circumstances in which a licence is not required

3. A person does not require a licence to act as a gangmaster under section 6(1) of the Act in the circumstances specified in the Schedule.

4. The Gangmasters Licensing (Exclusions) Regulations (Northern Ireland) 2010 are revoked.

Sealed with the official Seal of the Department of Agriculture and Rural Development on 5thFebruary 2014

Department of Agriculture and Rural Development

Colette McMaster
A senior officer of the

SCHEDULE Regulation 3

CIRCUMSTANCES IN WHICH A LICENCE IS NOT REQUIRED

PART 1

Produce workers

1. The supply of a worker to process or pack produce if the worker is supplied to—

(a) a catering establishment;

(b) a shop or other retail establishment;

(c) a wholesale market;

(d) a wholesale establishment;

(e) a distribution warehouse.

2. The supply of a worker to process or pack a product which includes a derivative of produce but where the product concerned is not a food product, pet food or a product which is primarily an agricultural, fish or shellfish product.

3. In this Part—

"catering establishment" means—

(a) A restaurant, canteen, club, public house, school kitchen, prison kitchen, hospital kitchen or similar establishment (including a vehicle or a fixed or mobile stall) where—

(i) Food is cooked or made ready for consumption without further preparation; and

(ii) Food is prepared for service to the consumer;

(b) Other premises where—

(i) Food is cooked or made ready for consumption without further preparation;

(ii) Food is prepared for service to the consumer; and

(iii) There is no change of ownership of the food concerned between preparation and delivery to the consumer;

"distribution warehouse" means premises where produce is received prior to onward distribution to a wholesale or retail establishment and—

(c) There is no change in the ownership of the produce concerned between receipt and onward distribution;

(d) The wholesale or retail establishment to which delivery is made is excluded under paragraph 1 of this Schedule; and

(e) The premises are owned by the same person that owns the retail or wholesale establishment to which the produce is delivered;

"produce" means produce derived from agricultural work, shellfish, fish or products derived from shellfish or fish;

"wholesale establishment" means facility operated solely for the purpose of selling produce for the purposes of resale or to a catering establishment, and includes a cash and carry warehouse but excludes a food processing or packaging facility; and

"to process or pack" includes to carry out the daily cleaning and maintenance of machinery used for the processing or packing.

PART 2

Agricultural Workers

4.—(1) The supply of a worker for agricultural work by a farmer (A) to another farmer (B) where —

(a) The supply is to do work on a farm which is the subject of a share-farming agreement between A and B; or

(b) The total hours the worker works for B are not more than thirty per cent of the total hours the worker worked for A in the twelve months immediately preceding the commencement of the period of work undertaken for B; or

(c) The worker has been supplied to A by a person (C) who acts as a gangmaster in making that supply, and the supply by A—

(i) Is made with C's agreement to the nature of the work to be undertaken for B; and

(ii) Is a one-off arrangement of less than two weeks.

(2) In this paragraph—
"share-farming agreement" means an agreement entered into between two or more pensions to share the net receipts of—

(a) Their separate business assets, or

(b) Services for carrying out specified farming operations,

As divided between them and paid to the businesses in agreed proportions.

5. The use of a worker for agricultural work by a farmer (A) to provide a service to another farmer (B) where the service provided involves a one-off arrangement of less than four weeks and—

(a) The total hours the worker works delivering services to B are not more than thirty per cent of the total hours the worker for A in the twelve months immediately preceding the commencement of the delivery of services to B; or

(b) The worker has been supplied to A by a person (C) who acts as a gangmaster in making that supply, and the use of the worker to deliver services by A is made with C's agreement to the nature of the services to be provided to B.

6. The supply of a worker by a farmer to a person (A) to operate machinery supplied by A for the purpose of undertaking agricultural work for that farmer.

7.—(1) The supply of a worker by a sole operator in the Seasonal Agricultural Workers Scheme to another Seasonal Agricultural Workers Scheme operator.

(2) In this paragraph "Seasonal Agricultural Workers Scheme" means a scheme operated by the Home Office, which allows farmers and growers in the United Kingdom to recruit workers to undertake work that is both seasonal and agricultural.

8. The use of a worker for agricultural work by a person (A) to provide a service to a farmer where—

(a) The service involves the use of machinery owned or hired by A; and

(b) The worker is employed by A to operate or to support the operation of that machinery.

9. The use of a worker for agricultural work by a person (A) to provide a service to a farmer where—

(a) A enters into an arrangement with another person (B) to deliver the service;

(b) The service involves the use of machinery owned or hired by B; and