STATUTORY RULES OF NORTHERN IRELAND

2006 No. 189

EMPLOYMENT

The Gangmasters (Appeals) Regulations (Northern Ireland) 2006

Made - - - -	*20th April 2006*
Coming into operation	*15th May 2006*

The Department of Agriculture and Rural Development(**1**), in exercise of the powers conferred on it by sections 10 and 25(2) of the Gangmasters (Licensing) Act 2004(**2**), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Gangmasters (Appeals) Regulations (Northern Ireland) 2006 and shall come into operation on 15th May 2006.

Interpretation

2.—(1) In these Regulations—

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

"appointed person" has the meaning given by regulation 3(1);

"the Authority" means the Gangmasters Licensing Authority;

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

"decision with immediate effect" means a decision of the Authority to revoke or suspend a licence, where the period between the date of the decision document and the date on which the decision comes into effect is five working days or less;

"decision document" means the letter, notice or other communication by which the appellant is informed of a decision of the Authority;

"disputed decision" means the decision of the Authority in relation to which the appellant appeals;

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

(**1**) Formerly the Department of Agriculture for Northern Ireland, *see* Article 3(4) of S.I.1999/283 (N.I. 1)
(**2**) 2004 c. 11: *see* modifications to sections 10 and 25(2) made by paragraphs 11, 19(1) and 19(2) of Schedule 2

"the parties" means the appellant and the Authority;

"working day" means a day other than a Saturday or a Sunday or a public holiday.

(2) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Assembly.

Appointed persons

3.—(1) The Department shall appoint an appointed person from members of the panel of Employment Tribunal Chairmen appointed under the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2004(**4**) to hear and determine each appeal brought under these Regulations.

(2) The Department may pay such remuneration and allowances to appointed persons as it may determine.

The Secretariat

4.—(1) The Department shall ensure that arrangements are made for the provision of a Secretariat in Northern Ireland to administer the appeals process and provide administrative assistance to appointed persons.

(2) Any document or information required by these Regulations to be sent to, or provided by, an appointed person may be sent to, or provided on his behalf by, the Secretariat.

Decisions which may be appealed and effect of appeal on licence

5.—(1) An appeal may be brought by a person against a decision of the Authority—

(a) to refuse his application for a licence;

(b) as to the conditions to which the grant of the licence to that person is subject;

(c) to refuse consent to the transfer of a licence granted to that person; or

(d) to modify or revoke a licence granted to that person.

(2) An appeal may be brought in respect of a full licence or a provisional licence.

(3) A licence which is the subject of an appeal against modification or revocation shall continue to have effect according to its original terms and conditions until such date as determined by the appointed person.

(4) Paragraph (3) shall not apply in the case of an appeal against a decision with immediate effect.

(5) Upon the withdrawal of an appeal against revocation of a licence or modification of a licence or its conditions, the Secretariat shall notify the parties that the appeal has been withdrawn and the disputed decision shall take effect on the later of the following dates—

(a) the date specified in the original decision document as the date the disputed decision was to take effect; or

(b) the sixth working day after the date of the document sent by the Secretariat to the parties notifying them of the withdrawal.

Notice of appeal

6.—(1) In order for an appeal to be valid, a notice of appeal shall be received by the Secretariat—

(a) not later than twenty working days after the date of the decision document; or

(**3**) 1954 c. 33 (N.I.)
(**4**) S.R. 2004 No. 165

(b) in the case of a decision with immediate effect, not later than ten working days after the date of the decision document.

(2) The notice of appeal shall be in writing and shall state—

(a) the name and address of the appellant and, if different, an address to which he requires notices and documents relating to the appeal to be sent;

(b) the grounds of the appeal.

Acknowledgement and notification of the appeal

7.—(1) The Secretariat shall send to the appellant an acknowledgement of receipt of the notice of appeal and shall specify a date by which the appellant shall supply any additional documentation on which he seeks to rely for the purposes of the appeal.

(2) The Secretariat shall at the same time send a copy of the notice of appeal and any accompanying documentation, or additional documentation, to the Authority.

Amendment and withdrawal of the appeal and supporting documentation

8.—(1) The appellant may amend his appeal, or any part of it, with the consent of the appointed person at any time before the hearing of the appeal.

(2) The appellant may withdraw his appeal at any time before it is determined.

(3) Where the appellant withdraws his appeal, he may not submit a subsequent appeal on the same grounds in relation to the same disputed decision.

(4) The Secretariat shall send to the Authority a copy of any documentation received from the appellant under this regulation.

Reply by the Authority

9.—(1) The Authority shall send to the Secretariat a reply to the notice of appeal so that it is received not later than the end of the period of twenty working days beginning with the date on which the copy of the notice of appeal is received by the Authority or as extended under regulation 13.

(2) The Authority may, either in its reply or at any time before the appeal is determined, notify the Secretariat that it no longer wishes to uphold a disputed decision, in which case the appointed person shall uphold the appeal.

(3) If the Authority fails to send a reply within the time specified in paragraph (1), or by a new date set by the appointed person under regulation 13(1), it may not take any further part in the proceedings unless the appointed person so directs.

Contents of the reply

10. The Authority's reply shall state—

(a) an address to which the Authority requires notices and documentation relating to the appeal to be sent;

(b) if the Authority seeks to uphold the disputed decision; and

(c) if the Authority seeks to uphold the disputed decision, the Authority's reply to each of the grounds of appeal supplied by the appellant.

Action by Secretariat on receipt of reply

11. Upon receipt of a reply by the Authority, the Secretariat shall send—

(a) an acknowledgement of receipt to the Authority specifying a date by which the Authority shall supply any additional documentation on which it seeks to rely for the purposes of the appeal;

(b) a copy of the reply and any accompanying documentation to the appellant; and

(c) a statement informing the parties that if either wishes the appeal to be determined without an oral hearing it shall notify the Secretariat as soon as possible.

Amendment of the reply and supporting documentation

12.—(1) The Authority may amend its reply, or any part of it, with the consent of the appointed person at any time before the hearing of the appeal.

(2) The Authority may amend or withdraw any documentation submitted in support of the reply at any time with the consent of the appointed person.

(3) The Secretariat shall send to the appellant a copy of any documentation received from the Authority under this regulation.

Extension of time

13.—(1) An appointed person may, on the application of either party or on his own initiative, extend the time for doing any act appointed by or under these Regulations where he considers there are reasonable grounds to do so, and may do so whether or not the time so appointed has expired.

(2) An application under paragraph (1) shall be made by presenting to the Secretariat a notice stating—

(a) the name of the appellant;

(b) the nature and date of the disputed decision which is the subject of appeal; and

(c) the grounds of the application.

(3) The Secretariat shall notify each party of any extension of time granted under this regulation.

Directions

14.—(1) At any stage in the proceedings the appointed person may, on his own initiative or on the application of either party, give such directions as he considers necessary or desirable to further the conduct of the appeal and may direct either party to provide any further particulars or documentation which may reasonably be required.

(2) The Secretariat shall send a copy of any application and documents submitted to the other party.

Power to decide the appeal without an oral hearing

15.—(1) If—

(a) both parties agree; and

(b) the appointed person considers it appropriate,

the appeal shall be determined without an oral hearing but otherwise shall be determined with an oral hearing.

(2) If—

(a) the appellant agrees that the case can be determined without an oral hearing;

(b) the Authority has not sent its reply before the date specified in regulation 9(1) (or as extended under regulation 13(1)); and