



Gangmasters (Licensing) Act 2004

2004 CHAPTER 11

Enforcement

15 Enforcement and compliance officers

- (1) The Secretary of State may appoint officers (“enforcement officers”) to act for the purposes of this Act—
 - (a) in enforcing the provisions of section 6 (prohibition of unlicensed activities), and
 - (b) in taking action in circumstances in which it appears that an offence under section 13 (persons entering into arrangements with gangmasters) has been, is being, or may be committed.
- (2) The Secretary of State may, instead of or in addition to appointing enforcement officers under subsection (1), make arrangements with a relevant authority for officers of that authority to be enforcement officers.
- (3) The following are relevant authorities for this purpose—
 - (a) the Authority,
 - (b) any Minister of the Crown or government department,
 - (c) the National Assembly for Wales,
 - (d) the Scottish Ministers,
 - (e) any body performing functions on behalf of the Crown.
- (4) The Authority may appoint officers (“compliance officers”) to act for the purposes of this Act in verifying, from time to time or in such circumstances as the Authority may determine, compliance by a licence holder with the conditions of the licence.
- (5) When acting for the purposes of this Act, an enforcement officer or a compliance officer shall, if so required, produce some duly authenticated document showing his authority to act.
- (6) If it appears to an enforcement officer or a compliance officer that any person with whom he is dealing while acting for the purposes of this Act does not know that he is an officer so acting, the officer shall identify himself as such to that person.

16 Powers of officers

- (1) An enforcement officer or a compliance officer acting for the purposes of this Act shall have power for the performance of his duties—
 - (a) to require the production by a relevant person of any records required to be kept by virtue of this Act, to inspect and examine those records, to remove those records from the premises where they are kept and to copy any material part of them,
 - (b) to require a relevant person to furnish to him (either alone or in the presence of any other person, as the officer thinks fit) an explanation of any such records,
 - (c) to require a relevant person to furnish to him (either alone or in the presence of any other person, as the officer thinks fit) any additional information known to the relevant person which might reasonably be needed in order to establish whether—
 - (i) any provision of this Act, or
 - (ii) any condition of any licence granted under it,is being complied with,
 - (d) at all reasonable times to enter any relevant premises in order to exercise any power conferred on the officer by virtue of paragraphs (a) to (c).
- (2) The powers conferred by subsection (1) include power, on reasonable written notice, to require a relevant person—
 - (a) to produce any such records as are mentioned in paragraph (a) of that subsection to an officer at such time and place as may be specified in the notice, or
 - (b) to attend before an officer at such time and place as may be specified in the notice to furnish any such explanation or additional information as is mentioned in paragraph (b) or (c) of that subsection.
- (3) The power conferred by subsection (1)(a) includes, in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (4) A person authorised by virtue of subsection (1)(a) to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (5) In this section “relevant person” means any person whom an officer acting for the purposes of this Act has reasonable cause to believe to be—
 - (a) a person acting as a gangmaster,
 - (b) a person supplied with workers or services by a person acting as a gangmaster,
 - (c) any employee or agent of a person falling within paragraph (a) or (b).
- (6) In this section and section 17—

“relevant premises” means any premises which an officer acting for the purposes of this Act has reasonable cause to believe to be—

 - (a) premises at which a person mentioned in subsection (5)(a) or (b) carries on business, and
 - (b) premises which such a person uses in connection with his business,

“premises” includes any place and, in particular, includes—

 - (a) any vehicle, vessel, aircraft or hovercraft, and

- (b) any tent or movable structure.

17 Entry by warrant

- (1) If a justice of the peace is satisfied by written information on oath that there are reasonable grounds for an enforcement officer to enter relevant premises for the purpose of ascertaining whether there has been any contravention of section 6 (prohibition of unlicensed activities), and is also satisfied—
 - (a) that admission to the premises has been refused, or that a refusal is expected, and (in either case) that notice of the intention to apply for a warrant has been given to the occupier,
 - (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry,
 - (c) that the case is one of extreme urgency, or
 - (d) that the premises are unoccupied or the occupier is temporarily absent,the justice may issue a warrant authorising the enforcement officer to enter the premises, if necessary using reasonable force.
- (2) An enforcement officer entering any premises by virtue of a warrant under this section may—
 - (a) take with him when he enters those premises such other persons and such other equipment as he considers necessary,
 - (b) carry out on those premises such inspections and examinations as he considers necessary for the purpose of ascertaining whether there has been any contravention of section 6, and
 - (c) take possession of any book, document, data, record (in whatever form it is held) or product which is on the premises and retain it for as long as he considers necessary for that purpose.
- (3) On leaving any premises which an enforcement officer is authorised to enter by a warrant under this section, that officer shall, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as he found them.
- (4) Where by virtue of subsection (2)(c) an enforcement officer takes possession of any item, he shall leave on the premises from which the item was removed a statement giving particulars of what he has taken and stating that he has taken possession of it.
- (5) In the application of this section to Scotland—
 - (a) the reference to a justice of the peace being satisfied by written information on oath, shall be read as a reference to a sheriff or a justice of the peace being satisfied; and
 - (b) “the justice” shall be read as a reference to the sheriff, or as the case may be, to the justice.

18 Obstruction of officers

- (1) A person commits an offence who—
 - (a) intentionally obstructs an enforcement officer or compliance officer who is acting in the exercise of his functions under this Act, or
 - (b) without reasonable cause, fails to comply with any requirement made of him by such an officer who is so acting.

Status: This is the original version (as it was originally enacted).

- (2) A person who, in giving any information which is required of him by an enforcement officer or compliance officer, makes a statement which is false in a material particular commits an offence.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding the statutory maximum, or to both,
 - (b) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum, or to both.

In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), for “51 weeks” in paragraph (a) substitute “six months”.

19 Information relating to gangmasters

- (1) Information held by any person for the purposes of, or for any purpose connected with, the exercise of functions under this Act—
- (a) may be supplied to any other person for use for any such purpose, and
 - (b) may be supplied to any person having functions in relation to—
 - (i) the enforcement of any other enactment applying to the operations of a person acting as a gangmaster,
 - (ii) the enforcement of any other enactment in connection with accommodation, meals or facilities provided to workers, or the conditions in which they work, or
 - (iii) offences committed by workers in connection with or by reason of their doing work to which this Act applies,
 for use for the purposes of, or for any purpose connected with, those functions.
- (2) Information relating to the operations of a person acting as a gangmaster which is held by any person for the purposes of, or for any purpose connected with, such functions as are mentioned in subsection (1)(b) may be supplied to any person having functions under this Act for the purposes of, or for any purpose connected with, the exercise of those functions.
- (3) Information supplied under subsection (2) by or on behalf of the Commissioners of Inland Revenue or the Commissioners of Customs and Excise must not be supplied by the recipient to any other person without the consent of the Commissioners concerned.
- (4) This section—
- (a) has effect notwithstanding any restriction on the disclosure of information imposed by any enactment or rule of law, and
 - (b) does not limit the circumstances in which information may be used or supplied apart from this section.
- (5) In this section “enactment” means an Act of Parliament, an Act of the Scottish Parliament or any Northern Ireland legislation or any instrument made under or having effect by virtue of an Act of Parliament, an Act of the Scottish Parliament or any Northern Ireland legislation.

- (6) References in this section to a person having functions of any description include references to any person providing, or employed in the provision of, services for that person in connection with those functions.