



Gangmasters (Licensing) Act 2004

2004 CHAPTER 11

Scope of Act

3 Work to which this Act applies

(1) The work to which this Act applies is—

- (a) agricultural work,
- (b) gathering shellfish, and
- (c) processing or packaging—
 - (i) any produce derived from agricultural work, or
 - (ii) shellfish, fish or products derived from shellfish or fish.

This is subject to any provision made by regulations under subsection (5) below and to section 5 (territorial scope of application).

(2) In subsection (1)(a) “agricultural work” means work in agriculture.

(3) In this Act “agriculture” includes—

- (a) dairy-farming,
- (b) the production for the purposes of any trade, business or other undertaking (whether carried on for profit or not) of consumable produce,
- (c) the use of land as grazing, meadow or pasture land,
- (d) the use of land as an orchard or as osier land or woodland, and
- (e) the use of land for market gardens or nursery grounds.

In paragraph (b) “consumable produce” means produce grown for sale, consumption or other use after severance from the land on which it is grown.

(4) In this Act “shellfish” means crustaceans and molluscs of any kind, and includes any part of a shellfish and any (or any part of any) brood, ware, halfware or spat of shellfish, and any spawn of shellfish, and the shell, or any part of the shell, of a shellfish.

(5) The Secretary of State may by regulations make provision—

- (a) excluding work of a prescribed description from being work to which this Act applies;

- (b) including work of the following nature as being work to which this Act applies—
 - (i) the gathering (by any manner) of wild creatures, or wild plants, of a prescribed description and the processing and packaging of anything so gathered, and
 - (ii) the harvesting of fish from a fish farm (within the meaning of the Diseases of Fish Act 1937 (c. 33)).

4 Acting as a gangmaster

- (1) This section defines what is meant in this Act by a person acting as a gangmaster.
- (2) A person (“A”) acts as a gangmaster if he supplies a worker to do work to which this Act applies for another person (“B”).
- (3) For the purposes of subsection (2) it does not matter—
 - (a) whether the worker works under a contract with A or is supplied to him by another person,
 - (b) whether the worker is supplied directly under arrangements between A and B or indirectly under arrangements involving one or more intermediaries,
 - (c) whether A supplies the worker himself or procures that the worker is supplied,
 - (d) whether the work is done under the control of A, B or an intermediary,
 - (e) whether the work done for B is for the purposes of a business carried on by him or in connection with services provided by him to another person.
- (4) A person (“A”) acts as a gangmaster if he uses a worker to do work to which this Act applies in connection with services provided by him to another person.
- (5) A person (“A”) acts as a gangmaster if he uses a worker to do any of the following work to which this Act applies for the purposes of a business carried on by him—
 - (a) harvesting or otherwise gathering agricultural produce following—
 - (i) a sale, assignment or lease of produce to A, or
 - (ii) the making of any other agreement with A,
 where the sale, assignment, lease or other agreement was entered into for the purpose of enabling the harvesting or gathering to take place;
 - (b) gathering shellfish;
 - (c) processing or packaging agricultural produce harvested or gathered as mentioned in paragraph (a).

In this subsection “agricultural produce” means any produce derived from agriculture.
- (6) For the purposes of subsection (4) or (5) A shall be treated as using a worker to do work to which this Act applies if he makes arrangements under which the worker does the work—
 - (a) whether the worker works for A (or for another) or on his own account, and
 - (b) whether or not he works under a contract (with A or another).
- (7) Regulations under section 3(5)(b) may provide for the application of subsections (5) and (6) above in relation to work that is work to which this Act applies by virtue of the regulations.

5 Territorial scope of application

- (1) The work to which this Act applies is work—
- (a) in the United Kingdom,
 - (b) on any portion of the shore or bed of the sea, or of an estuary or tidal river, adjacent to the United Kingdom, whether above or below (or partly above and partly below) the low water mark, or
 - (c) in UK coastal waters.

- (2) In subsection (1)(c) “UK coastal waters” means waters adjacent to the United Kingdom to a distance of six miles measured from the baselines from which the breadth of the territorial sea is measured.

In this subsection “miles” means international nautical miles of 1,852 metres.

- (3) The provisions of this Act apply where a person acts as a gangmaster, whether in the United Kingdom or elsewhere, in relation to work to which this Act applies.