



GLAA Brief

Issue 62 – March 2020
Temporary Licensing and COVID 19

This Brief publishes the latest guidance on the sourcing of workers as a result of COVID 19.

Introduction

The GLAA recognises that these are unprecedented times due to the COVID 19 pandemic and there has been a significant impact on food production. The GLAA is keen to work with industry and particularly Labour Providers to mitigate the effects on labour supply to critical food supply sectors. This Brief explains how the GLAA will support the maintenance of food supply chains by introducing a temporary licence scheme for the labour supply chain.

Exclusions from licensing

Certain activities are excluded from needing a licence. There are exclusions in place which cover the transfer of workers which will still apply. These are explained further in our guidance <https://www.gla.gov.uk/media/4604/guidance-on-who-needs-a-licence-april-2019.pdf>

The key areas to consider are:

- Farmer to Farmer loans of workers
- Family member exclusion
- Raising crops or livestock as a service to a third party

If an employer or a labour provider chooses to transfer their workers to a labour user at no cost, as they have no work, then this would not be a licensable activity e.g. a business says to a food factory “have my workers, no charge” on a permanent/temporary basis whilst there is no work for them.

Sourcing Workers

The scope of the GLAA licensing scheme is set out in the Gangmasters (Licensing) Act 2004 (“the Act”), as modified by The Gangmasters Licensing (Exclusions) Regulations 2013 and The Gangmasters Licensing (Exclusions) Regulations (Northern Ireland) 2014. The Act allows the GLAA to grant licences on a provisional basis whilst determining if a licence should be granted (section 8 (3)(f)). The GLAA has not relied on this provision previously but in response to the current situation will now be issuing temporary licences (provisional) to facilitate the supply of workers to food production. This will be a time-limited approach.

Temporary licences will only be granted to established businesses operating within the wider labour supply industry and who wish to support an existing GLAA licence holder. Applications for a Temporary licence must be sponsored by an existing GLAA licence holder who will be expected to carry out due diligence in line with the Licensing Standards.

Applicants for a temporary licence must declare in advance any unspent criminal convictions for offences involving violence, dishonesty, labour or sexual offences. They must declare any sanction or pending case within the last 3 years connected with HMRC, employment law (including adverse ET findings connected with labour exploitation), H&S, Immigration, or previous GLAA licence revocation or /refusal, to inform the GLAA risk assessment. Applicants must also be registered with HMRC for PAYE, UTR and VAT (where appropriate) and be able to demonstrate this. Any workers supplied must have the right to work in the UK and should not be supplied on a self-employed basis. The applicant will also be expected to nominate a Principal Authority (PA) (person in day to day control of the business) and an alternative business representative and provide personal and contact details. The licensed Labour Provider engaging the business should have a supply contract with their partner, although workers can be supplied directly.

The consideration for a Temporary licence will be made by the GLAA on a case by case basis and after an appropriate risk assessment. All applications will be subject of risk-based checks but will be progressed as quickly as possible. We are unclear as to how much demand there will be for this service but hope to be able to make a decision on a Temporary licence within 5 working days. Those which may need further investigation will take longer. It is important therefore that all required information is provided promptly and accurately. No supply of workers should occur until the GLAA have indicated their agreement in writing to supply commencing.

Any Temporary licence will be granted with the following additional licence conditions (ALC's):

- The business may only supply workers in partnership with an agreed licence holder(s) (sponsor) – the workers could either transfer to the Licence holder or remain “on the books” of the temporary licence holder but supply must be arranged through the licence holder to the labour user
- The details of the supply – this will include the details of the labour user business that workers are being supplied to and the location where workers will be working

- The supply arrangements are only for as long as is necessary to overcome the direct effects of COVID19 within the relevant supply sector
- The maximum period a temporary licence will be granted for is 3 months, after which the business would be expected to apply for a full licence in accordance with normal licensing regulations or confirm that it has stopped supplying labour to the named GLAA regulated labour provider.

If either business wishes to change their Temporary licensed arrangements, they must notify the GLAA. If it is discovered that either party has operated outside of the licence conditions, then the GLAA will investigate the circumstances and where there has been an intention to circumvent licensing rules may revoke the licence and/or pursue a prosecution for unlicensed trading. Temporary licence holders must not source workers from other unlicensed sources – to do so will risk having their Temporary licence revoked and where this was done with the complicity or through the negligence of the GLAA licensed sponsor, this may impact adversely on the licence status of their GLAA licensed sponsor.

The Temporary licence will expire after 3 months unless the COVID 19 situation changes. This will be at the discretion of the GLAA and all parties will be notified, if the licence will be allowed to continue for a longer period.

If a Temporary Licence holder wishes to supply beyond the 3-month period, they should ensure that they have completed the Licence application form and paid the application and inspection fee, prior to the period expiring. This will ensure that they can continue to supply until a decision has been made by the GLAA on their full application.

New Process

This process will operate for 3 months until 30 June 2020 or whilst the government restrictions arising from COVID 19 are still extant. These arrangements may be withdrawn or amended, if it becomes clear that the situation relating to food production has changed. This process is not designed to circumvent any existing government scheme in place to source seasonal workers and is only for those businesses who are unable to source labour as a result of shortages arising from COVID 19.

Licensed Labour Providers should direct their commercial partner to request an application form from the Licensing Team using the contact details below. Once the application is complete and has been signed off by the prospective PA, they should ask the licence holder to countersign the form and the current licence holder should then return the countersigned form to the Licensing team. The Licensing Team will acknowledge receipt of the application and advise the labour provider as to what action they can take. Given the current requirement to work from home, the GLAA can only accept electronic forms. Applicants may seek sponsorship from more than one licensed labour provider, but their application must be counter-signed by each partner.

The GLAA will undertake a risk assessment based on the information provided by the applicant and other information available and will indicate whether the applicant can supply workers immediately or must await receipt of their Temporary licence.

A Temporary licence will be issued unless the risk assessment suggests it is inappropriate to do so. Should it be necessary to refuse the application, the applicant will be advised and may appeal the decision to the GLAA. As a first step upon appeal, the application will be considered by a senior GLAA manager to allow for a quick review to occur. The applicant can also formally appeal the refusal in line with the Appeals Regulations and information will be provided on this, but this can take several months. The GLAA licensed Sponsor will be advised that the application has been refused but confidential details will not be provided.

A list of those businesses who have been granted a licence with details of their URN will be maintained daily and published on the GLAA website.

Currently, there are no plans by the GLAA to impose an Application or Inspection fee for the COVID19 Temporary licence process.

Compliance with the Licensing Standards

During this period, Labour Providers are expected to remain compliant with the Licensing Standards and to ensure that any recruiter they use is also compliant.

If a labour provider (full or Temporary) uses an unlicensed provider without seeking approval from the GLAA they will be in breach of Standard 8 and may face enforcement action and/or revocation of their licence.

Further information

1. If you any further queries, please contact the GLAA helpline on 0345 602 5020 or email licensing@gla.gov.uk.
2. For the latest news and updates from the GLAA:



Twitter: [@UK_Glaa](https://twitter.com/UK_Glaa)



facebook: www.facebook.com/GangmastersLicensingAuthority

If you have received a hard copy of this Brief but would prefer electronic versions in the future, please email communications@gla.gov.uk