



# Gangmasters (Licensing) Act 2004

## 2004 CHAPTER 11

### *Offences*

#### **12 Offences: acting as a gangmaster, being in possession of false documents etc**

- (1) A person commits an offence if he acts as a gangmaster in contravention of section 6 (prohibition of unlicensed activities).

For this purpose a person acting as a gangmaster does not contravene section 6 by reason only of the fact that he breaches a condition of the licence which authorises him to so act.

- (2) A person commits an offence if he has in his possession or under his control—
- (a) a relevant document that is false and that he knows or believes to be false,
  - (b) a relevant document that was improperly obtained and that he knows or believes to have been improperly obtained, or
  - (c) a relevant document that relates to someone else,

with the intention of inducing another person to believe that he or another person acting as a gangmaster in contravention of section 6 is acting under the authority of a licence.

- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction—
- (a) in England and Wales, to imprisonment for a term not exceeding twelve months, or to a fine not exceeding the statutory maximum, or to both;
  - (b) 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 154(1) of the Criminal Justice Act 2003 (c. 44), for “twelve months” in paragraph (a) substitute “six months”.

- (4) A person guilty of an offence under subsection (1) or (2) is liable on conviction on indictment to imprisonment for a term not exceeding ten years, or to a fine, or to both.
- (5) For the purposes of this section—

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*Status: This is the original version (as it was originally enacted).*

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- (a) except in Scotland, a document is false only if it is false within the meaning of Part 1 of the Forgery and Counterfeiting Act 1981 (c. 45) (see section 9(1) of that Act), and
- (b) a document was improperly obtained if false information was provided, in or in connection with the application for its issue or an application for its modification, to the person who issued it or (as the case may be) to a person entitled to modify it,

and references to the making of a false document include references to the modification of a document so that it becomes false.

- (6) In this section “relevant document” means—
  - (a) a licence, or
  - (b) any document issued by the Authority in connection with a licence.

### **13 Offences: entering into arrangements with gangmasters**

- (1) A person commits an offence if—
  - (a) he enters into arrangements under which a person (“the gangmaster”) supplies him with workers or services, and
  - (b) the gangmaster in supplying the workers or services contravenes section 6 (prohibition of unlicensed activities).
- (2) In proceedings against a person for an offence under subsection (1) it is a defence for him to prove that he—
  - (a) took all reasonable steps to satisfy himself that the gangmaster was acting under the authority of a valid licence, and
  - (b) did not know, and had no reasonable grounds for suspecting that the gangmaster was not the holder of a valid licence.
- (3) The Secretary of State may by regulations make provision as to what constitutes “reasonable steps” for the purposes of subsection (2)(a).
- (4) A person guilty of an offence under subsection (1) 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”.

### **14 Offences: supplementary provisions**

- (1) An enforcement officer (see section 15) has the powers of arrest mentioned in subsection (2) (in addition to powers under section 24(4) and (5) of the Police and Criminal Evidence Act 1984 (c. 60)) in relation to any of the following offences—
  - (a) an offence under section 12(1) or (2),
  - (b) conspiring to commit any such offence,
  - (c) attempting to commit any such offence,

- (d) inciting, aiding, abetting, counselling or procuring the commission of any such offence.
- (2) Those powers are as follows—
- (a) if he has reasonable grounds for suspecting that such an offence has been committed, he may arrest without warrant anyone whom he has reasonable grounds for suspecting to be guilty of the offence;
  - (b) he may arrest without warrant—
    - (i) anyone who is about to commit such an offence;
    - (ii) anyone whom he has reasonable grounds for suspecting to be about to commit such an offence.
- (3) Subsections (1) and (2) do not apply in Scotland.
- (4) In Schedules 2, 4 and 5 to the Proceeds of Crime Act 2002 (c. 29), after paragraph 9 insert—
- “9A An offence under section 12(1) or (2) of the Gangmasters (Licensing) Act 2004 (acting as a gangmaster other than under the authority of a licence, possession of false documents etc).”.