

## **EXPLANATORY MEMORANDUM TO**

### **THE GANGMASTERS (LICENSING CONDITIONS) (NO.2) (AMENDMENT) RULES 2008**

#### **No. 638**

1. This explanatory memorandum has been prepared by the Gangmasters Licensing Authority (“the Authority”) and is laid before Parliament by Command of Her Majesty.

#### **2. Description**

2.1 The instrument makes changes to the fees and fee levels payable to the Authority.

#### **3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

#### **4. Legislative Background**

4.1 The Gangmasters (Licensing) Act 2004 established the Gangmasters Licensing Authority to licence gangmasters operating in the agriculture, shellfish gathering and food processing and packaging sectors. Under section 8 of the Act, the Authority has the power to make rules to require the payment of fees, which it exercised in the Gangmasters (Licensing Conditions) (No.2) Rules 2006 (S.I. 2006/2373). This instrument amends those Rules.

#### **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

#### **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy background**

7.1 As a public body, the Authority is expected to recover its operating costs through licence fees. The Authority consulted current licence holders and stakeholders (a total of 1,368 consultees) on the proposed fees for 2008 – 09 between 8 November 2007 and 21 December 2007. A summary of responses is available on the Authority’s website ([www.gla.gov.uk](http://www.gla.gov.uk)).

7.2 The Authority intends to introduce a system whereby in the first year of licensing, an applicant will pay an increased fee and thereafter will pay a significantly reduced renewal fee. This is similar to the arrangements for 2007 – 08 whereby a new applicant pays an application inspection fee and licence fee. For 2008 – 09, application

inspections will still be carried out for new applicants but it they not be charged separately. The following fees will be payable for applications and renewals of licences for the financial year 2008 – 09 (rule 2(2)):

<b>Annual turnover in the licensed sectors</b>	<b>Fee Band</b>	<b>Application Fee</b>	<b>Renewal Fee</b>
£10 million or more	A	£12,900	£10,000
From £5 million to less than £10 million	B	£7,400	£5,000
From £1 million to less than £5 million	C	£4,050	£1,900
Less than £1 million	D	£2,250	£400

7.3 Rule 2(2) also clarifies the basis on which the licence is calculated and removes the reduction in fees for applications for a licence to gather shellfish (this reduction was time limited until 30 November 2006).

7.4 Rule 2(3) removes provisions relating to the previous system of fees for application inspections.

## **8. Impact**

8.1 An Impact Assessment is attached to this memorandum.

## **9. Contact**

9.2 David Nix at the Gangmasters Licensing Authority on tel: 0115 900 8964 or e-mail: [david.nix@gla.gsi.gov.uk](mailto:david.nix@gla.gsi.gov.uk) can answer any queries regarding the instrument.

# Impact Assessment

## Summary: Intervention and Options

Contact for enquiries: David Nix, [david.nix@gla.gsi.gov.uk](mailto:david.nix@gla.gsi.gov.uk), 0115 900 8964

### What is the problem under consideration?

This consultation reviews the GLA fee levels for the period 6 April 2008 to 5 April 2009.

### What are the policy objectives and intended effects?

As a public body, the GLA is expected to recover its operating costs through licence fee and incomes.

### What policy options have been considered?

2 options are proposed:

Option 1 – do nothing and leave the fee levels unchanged

Option 2 – revise fee levels (see table below).

### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The GLA licence fees are reviewed annually.

### Sign-off

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the options.

Signed by



**Paul Whitehouse, GLA Chairman**

## Summary: Analysis and Evidence

### Costs for recommended option

Annual turnover in licensed sectors	Licence band	Proposed licence fee for new applications	Proposed licence fee for renewals
Over £10m	A	£12,900	£10,000
£5m - £10m	B	£7,400	£5,000
£1m - £5m	C	£4,050	£1,900
Less than £1m	D	£2,250	£400

### Benefits

There are no monetary benefits.

### Key assumptions

Based on 1,375 new applicants and existing licence holders renewing.

### Impact on Admin Burdens Baseline

There are no administrative burdens associated with these proposals.

### Evidence Base

#### Background

As a public body, the GLA is expected to recover its operating costs through licence fees. For 2008 – 09, the GLA budgeted costs to be recovered are £1,376,755. These costs are set out in Appendix A.

#### Consultation

A public consultation was closed 21 December 2007. All current applicants, licence holders and other interested stakeholders were invited to respond. 20 responses were received.

#### Sectors and Groups Affected

Current licence holders and prospective applicants after 6 April 2008 will be affected by any change in the licence fee. The GLA estimates the total number of licences issued for 2008 – 09 to be 1,375. This is based on the GLA's forecast figure for 2007 – 08 of 1,304 licences. From current trends, it further assumes 6 per cent of licence holders do not renew (either through amalgamation, moving out of the sector or ceasing to trade) and that an additional 148 businesses will come forward. Based on the current distribution of licence holders, it assumed 37 of the 148 will be in band C and the remainder in band D.

The table below details these assumptions:

Band	Forecast 2007 / 08			Forecast 2008 / 09		
	New	Renewals	Total	Renewals (less 6%)	New	Total
A	0	12	12	11	0	11
B	1	17	18	17	0	17
C	43	171	214	202	37	239
D	431	629	1,060	997	111	1,108
Total	475	829	1,304	1,227	148	1,375

## Options

The GLA proposes 2 options.

### Option 1

Do nothing, that is continue with the licence fee levels for 2007 – 08. The fee levels for 2007 – 08 are:

Annual turnover in licensed sectors	Licence band	Licence fee	Application inspection charge
More than £10m	A	£9,000	£2,500
£5m – 10m	B	£4,500	£2,100
£1m – 5m	C	£1,750	£1,850
Less than £1m	D	£400	£1,600

## Costs and Benefits

Continuing with the 2007 – 08 levels would represent no increase for existing licence holders or potential applicants. However, the total income generated would leave a shortfall of approximately £100,000 in revenue. On this basis, the GLA rejects this option.

### Option 2

Revise the fee levels to recover the forecasted GLA budget for 2008-09. The GLA also proposes to introduce a system whereby in the first year of licensing, a labour provider will pay an increased fee and thereafter will pay a significantly reduced renewal fee. This is very similar to current arrangements whereby a new business pays an application inspection fee before it can be licensed. Application inspections will still be carried out for new businesses but will not be charged separately. In effect, this means that no business which is currently licensed will be disadvantaged.

If, in the future, the GLA decides that risk profiling will be used to determine whether a business requires an application inspection, such businesses will continue to pay the 'higher' first year fee.

## Costs and Benefits

The GLA intends to continue with four fee bands categorised according to the size of annual turnover in the licensed sectors. The following fee levels for 2008-09 are proposed for option 2:

Annual turnover in licensed sectors	Licence band	Proposed licence fee for new applications	Proposed licence fee for renewals
Over £10m	A	£12,900	£10,000
£5m - £10m	B	£7,400	£5,000
£1m - £5m	C	£4,050	£1,900
Less than £1m	D	£2,250	£400

Following the consultation, the GLA also intends proportionate action against new applicants who have previously traded illegally. If the GLA identifies a new applicant as trading illegally in the previous 12 months, the start date of the licence could be back dated to the point in time the illegal trading commenced. The applicant would be given a choice: accept the retrospective start date or face prosecution.

This is in line with the GLA's proportionate approach to enforcement and would address any advantage the business may have gained through illegal trading. The GLA would still, if significant worker exploitation was identified, reserve the right to pursue a prosecution. Although this approach is likely to have a minimal impact on fee income, but it would send strong message for the GLA's desire to tackle non-compliant activities. For ease of implementation, the GLA will limit this retrospective licensing to the previous 12 months.

Given the concerns expressed by the forestry industry, this requirement on the sector at this time would not be imposed on the forestry sector.

## Small Firms Impact Test

Over 95 per cent of licence holders are defined as a small to medium sized enterprise (SME). A SME is one with fewer than 250 employees or has less than £5 million turnover a year.

The proposed licence fee level for 2008 – 09 is an increase on the levels for 2007 – 08. The GLA recognises this is an increase for the ongoing costs for small businesses. However, the GLA is satisfied the burden on small businesses is proportionate. The fee bands reflect the relative size of the licence holders and potential applicants.

## Competition Assessment

It is believed that no licence holder has more than a 10 per cent share of the market. No one firm has a dominant share of the market. Licence holders and new applicants who operate on a small scale will have the greatest concern over their ability to pay the licence fee. However, continuing the banded approach will ensure the amount paid reflects the size of operation. The GLA does not consider the options for the licence fee are unlikely to have any significant effect on competition.

## Recommendation

The GLA favours option 2 as it keeps the fee levels at a reasonable level whilst achieving the objective of recovering the Authority's operating costs.

## Specific Impact Tests Checklist

Type of testing undertaken	Results in evidence base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	N/A	N/A
Sustainable Development	N/A	N/A
Carbon Assessment	N/A	N/A
Other Environment	N/A	N/A
Health Impact Assessment	N/A	N/A
Race Equality	N/A	N/A
Disability Equality	N/A	N/A
Gender Equality	N/A	N/A
Human Rights	N/A	N/A
Rural Proofing	N/A	N/A

## Appendix A – GLA Forecast Budget 2008 / 09

### GLA Budget 08 / 09– Pay Costs

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Budg
Chairman	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	2
Chief Executives Office	12,277	12,277	12,277	12,277	12,277	12,277	12,656	12,656	12,656	12,656	12,656	12,656	14
Policy & Secretariat	13,724	13,724	13,724	13,724	13,724	13,724	14,147	14,147	14,147	14,147	14,147	14,147	16
Licensing & Compliance	54,980	54,980	54,980	54,980	54,980	54,980	56,670	56,670	56,670	56,670	56,670	56,670	66
Finance & Corporate Services	25,261	25,261	25,261	25,261	25,261	25,261	26,043	26,043	26,043	26,043	26,043	26,043	30
Helpdesk	1,751	1,751	1,751	1,751	1,751	1,751	1,806	1,806	1,806	1,806	1,806	1,806	2
Business Review Consultancy													
HR Consultancy	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	2
Performance related pay		1,500			1,500			1,500				35,000	3
Temporary Labour	1,600	1,600	1,600	1,600	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	2
<b>Total</b>	112,960	114,460	112,960	112,960	114,560	113,060	116,389	117,889	116,389	116,389	116,389	151,389	1,41



**GLA Budget 08 / 09 – Non - Pay Costs**

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Budget
Travel & subsistence	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	180,000
Accommodation	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	60,000
Office machinery	250		100	250		100	250		100	250		100	1,400
Telephone	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	25,200
Stationery/postage	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	24,000
Board expenses	1,000	1,000		1,000	1,000		1,000	1,000		1,000	1,000		8,000
Internal audit												12,000	12,000
External audit												29,600	29,600
Annual Report												2,000	2,000
Recruitment costs	3,500			3,500			3,500			3,500			14,000
Vehicle hire													0
Training	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	1,667	20,000
App Opps for LAWS	4,773	4,773	4,773	4,773	4,773	4,773	4,773	4,773	4,773	4,773	4,773	4,773	57,276
Software licenses & Support	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	18,000
Marketing	6,667	6,667	6,667	6,667	6,667	6,667	6,667	6,667	6,667	6,667	6,667	6,663	80,000
Miscellaneous	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	27,600
External Inspections	4,000	4,000	4,000	4,000	4,000	4,000	4,000	5,000	5,000	4,000	4,000	4,000	50,000
Interpreters	4,167	4,167	4,167	4,167	4,167	4,167	4,167	4,167	4,167	4,167	4,167	4,167	50,004
Legal Costs (Appeals)	8,334	8,334	8,334	8,334	8,334	8,334	8,334	8,333	8,333	8,333	8,330	8,333	100,000
Measuring Outcomes						17,625						17,625	35,250
Depreciation	14,625	14,625	14,625	14,625	14,625	14,625	15,250	15,250	15,250	15,250	15,250	15,250	179,250
<b>Total</b>	<b>76,883</b>	<b>73,133</b>	<b>72,233</b>	<b>76,883</b>	<b>73,133</b>	<b>89,858</b>	<b>77,508</b>	<b>74,757</b>	<b>73,857</b>	<b>77,507</b>	<b>73,754</b>	<b>134,078</b>	<b>973,580</b>

**GLA Budget 08 / 09 – Total Pay and Non- Pay Costs**

	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Budget</b>
Total Pay Costs	112,960	114,460	112,960	112,960	114,560	113,060	116,389	117,889	116,389	116,389	116,389	151,389	1,415,790
Total Non Pay Costs	76,883	73,133	72,233	76,883	73,133	89,858	77,508	74,757	73,857	77,507	73,754	134,078	973,580
Less Overhead Transfer From Enforcement Budget (funded by Defra)	82,004	81,079	80,529	82,004	81,079	80,529	83,849	82,924	82,374	83,849	82,324	110,051	1,012,595
<b>Total Expenditure</b>	107,839	106,514	104,664	107,839	106,614	122,389	110,047	109,721	107,871	110,046	107,818	175,415	1,376,775

### Enforcement Revenue Budget (funded by Defra)

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Budget
<b>Pay Costs</b>													
Pay Costs	59,865	59,865	59,865	59,865	59,865	59,865	61,713	61,713	61,713	61,713	61,713	61,713	729,468
Performance Related Pay		1,000			1,000			1,000				18,885	21,885
Allowances Contingency													0
<b>Total Pay Costs</b>	59,865	60,865	59,865	59,865	60,865	59,865	61,713	62,713	61,713	61,713	61,713	80,598	751,353
<b>Non Pay Costs</b>													
T&S	11,333	11,333	11,333	11,333	11,333	11,333	11,333	11,333	11,333	11,333	11,335	11,335	136,000
Vehicle Hire													0
Training	1,130	1,130	1,130	1,130	1,130	1,130	1,130	1,130	1,130	1,130	1,130	1,122	13,552
Interpretors (Witness Statements etc)	833	833	833	833	833	833	833	833	833	833	835	835	10,000
Home working equipment						250						250	500
Telephones/Radio	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	2,300	27,600
IT Support	500	500	500	500	500	500	500	500	500	500	500	500	6,000
IT Enhancements	75	75	75	75	75	75	75	75	75	75	75	75	900
IT Forensics						2,500						2,500	5,000
Recruitment						3,500				3,500			7,000
Miscellaneous	250	250	250	250	250	250	250	250	250	250	250	250	3,000
Clothing			250			250			250			250	1,000
Pool Equipment Costs	250	250	250	250	250	250	250	250	250	250	250	250	3,000
<b>Total Non Pay Costs</b>	16,671	16,671	16,921	16,671	16,671	23,171	16,671	16,671	16,921	20,171	16,675	19,667	213,552
<b>Plus Overhead Transfer From Enforcement</b>	82,004	81,079	80,529	82,004	81,079	80,529	83,849	82,924	82,374	83,849	82,324	110,051	1,012,595
<b>Plus NI Surplus/Deficit</b>	(16,933)	8,067	8,067	(16,933)	8,067	8,072	(16,747)	8,253	8,253	(16,747)	8,253	10,328	0
<b>TOTAL EXPENDITURE</b>	141,607	166,682	165,382	141,607	166,682	171,637	145,486	170,561	169,261	148,986	168,965	220,644	1,977,500

<b>Enforcement Northern Ireland</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Budget</b>
Income	25,000			25,000			25,000			25,000			100,000
<b>Expenditure</b>													
Pay Costs	5,675	5,675	5,675	5,675	5,675	5,675	5,851	5,851	5,851	5,851	5,851	5,851	69,156
Performance Related Pay												2,075	2,075
T&S	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	22,500
Training													
Interpreters (Witness Statements etc)	417	417	417	417	417	417	417	417	417	417	417	417	5,004
Equipment													
Miscellaneous	100	100	100	100	100	105	110	110	110	110	110	110	1,265
<b>TOTAL EXPENDITURE</b>	<b>8,067</b>	<b>8,067</b>	<b>8,067</b>	<b>8,067</b>	<b>8,067</b>	<b>8,072</b>	<b>8,253</b>	<b>8,253</b>	<b>8,253</b>	<b>8,253</b>	<b>8,253</b>	<b>10,328</b>	<b>100,000</b>
<b>Surplus/Deficit</b>	<b>16,933</b>	<b>(8,067)</b>	<b>(8,067)</b>	<b>16,933</b>	<b>(8,067)</b>	<b>(8,072)</b>	<b>16,747</b>	<b>(8,253)</b>	<b>(8,253)</b>	<b>16,747</b>	<b>(8,253)</b>	<b>(10,328)</b>	