

The Gangmasters (Appeals) Regulations 2006

**In the matter of an appeal against a decision made by the
Gangmasters Licensing Authority (GLA)**

Renavatio Limited

Appellant

and

The Gangmasters Licensing Authority

Respondent

Case number : 53/E/RV

Appointed Person: Mr J D Young

Decision and Summary Statement of reasons of the Appointed

Person, in relation to the above matter;

Decision

Upon consideration of the appeal documents, written representations made by the appellants and respondent and accompanying papers the decision is that:-

- (i) the appeal is dismissed ; and
- (ii) the decision to revoke the licence is effective from 10 October 2008

Reasons for decision

1. The parties to this appeal agreed that the matter could be determined without an oral hearing in terms of Regulation 15(1)(a) of the Gangmaster (Appeals) Regulations 2006 ("the Regulations") and I agreed that was appropriate in terms of Regulation 15(1)(b). Reasons are now provided in terms of Regulation 22(2) of the Regulations.

2. A Licence under the Gangmasters (Licensing) Act 2004 ("the Act") was granted to the appellants on 15 August 2007 which was subject to three Licensing Standard conditions LS 2.2; LS 6.1 and LS 7.3 being fulfilled by the appellants by 15 November 2007.

3. On 2 May 2008 notification of a licence inspection by the respondent was given to the appellants and on 13 May 2008 the respondent carried out a compliance inspection and ascertained that the three licensing conditions outlined in the Licence granted on 15 August 2007 had not yet been met. That inspection also revealed that a further condition LS 5.2 required compliance. That Standard related to the workers working in excess of 48 hours per week freely signing an opt out rather than having it contained as a term within a contract of employment.

4. The detail of the non compliance found by the respondent following their inspection is set out in their letter to the appellants of 30 May 2008. That letter advised that the respondent intended to revoke the appellants licence with effect from 26 June 2008 unless an appeal was lodged "within the next 20 working days" The reason for revocation was failure to comply with Licensing Standards such that "your business scored 32 points" against a "fail score" of 30 points. The appellants appeal was allowed to be lodged on 6 July 2008 albeit late.

5. The appellants grounds of appeal are:-

"Licensing Standard 2.2

As the company has meantime stopped trading pending the outcome of this appeal Miss Osite as Managing Director of the Company has taken the personal responsibility to pay HRMC for all outstanding amounts due

to HMRC for Pay As You Earn. She is working on her own to generate capital and has commenced repayment of the outstanding amount.

Licensing Standard 5.2

The employment contract has been amended and in accordance with statutory legislation no employee will be requested to work more than 48 hours per week on average over the 17 week period.

However should a future requirement arise for an average working week to fall into this category the necessary forms have been prepared for signature by the employee and the statement added on the last page of the contract. Also added to the contract is the payment of work regardless statement.

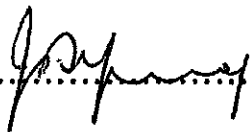
Licensing Standard 6.1

There are now in place written health and safety agreements for signature by the labour provider and the labour user prior to commencing work. In her dedication to the company Miss Osite has undertaken the responsibility of Company Health and Safety representative. Regular Risk Assessment inspections will be made with a Health and Safety check list and recorded in the Health and Safety daily book. Any outstanding issues will be discussed with the labour user and in the event of no satisfactory agreements being reached the labour will be withdrawn from the site.”

Documents were produced in support of the statements on the “opt out”, contract conditions and Health and Safety issues.

6. It would appear from the information provided that the appropriate documentation and arrangements outlined by the appellants were not in place at the time of the Compliance Inspection on 13 May 2008 nor at the date the revocation letter was issued on 30 May 2008. The three licence conditions LS 2.2; 6.1 and 7.3 should have been attended to by 15 November 2007. These were material conditions. In those circumstances I consider that on the information available to the respondent at 30 May 2008 they were entitled to issue their revocation letter and that compliance subsequent to the event is not a reason to allow the appeal which is dismissed. Albeit the appellants say they have ceased trading pending the appeal, given that they appear to have taken steps to comply

with the Licensing Standards I will put the date of revocation at 10 October 2008 so that the appellants can make application for a new Licence if they so wish. That would require a fresh application, inspection and fees but if as might be expected compliance has been made then a fresh Licence should be available to the appellants by that date.

Signed..........

(Person Appointed by the Secretary of State to determine appeals under The Gangmasters (Appeals) Regulations 2006)

Dated: 4 September 2007