



GLAA Brief

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How Licensing Applies to Businesses Based Outside the UK

This Brief explains how licensing applies to businesses based outside of the UK and how this affects the labour providers and labour users who use such businesses. This guidance supersedes GLA Brief 41 and is in force with immediate effect.

Introduction

The GLAA is the UK Government body responsible for licensing businesses that supply workers to the UK agriculture, horticulture, shellfish gathering and food processing and packaging sectors in the UK.

This Brief is intended as a general guide on how we review applications from overseas applicants. We recommend you contact the GLAA for specific advice if you are unsure how this guidance applies to you or any overseas sub-contractors you intend to use.

Do businesses based outside the UK need to be licensed by the GLAA?

Any person or separate business involved in the supply of workers (as defined below) to the GLAA regulated sectors, who are not directly employed by an existing GLAA licence holder, must be licensed in their own right.

This means anyone based outside the UK will need a licence if they supply workers directly to an end user or to another labour provider trading in the GLAA sectors.

What does supply mean?

Supply has a wide meaning and includes:

- introducing workers in any way to a labour provider or labour user for work in the GLAA sectors,
- sourcing workers and forwarding them to a UK client for work in the GLAA sectors (for example, by sending CVs or completed application forms),
- any kind of screening of candidates for work in the GLAA sectors, even if the end client makes the final decision to employ the worker, and
- using a worker to provide a service.

This definition applies equally to businesses based in or outside the UK.

It does not matter whether the workers are self-employed, agency workers or employees. Supplying any kind of workers to the GLAA sector, regardless of their employment status, means a licence is needed. Please refer to the Guidance on who needs a licence for further details (see link below).

Use of sub-contractors in the UK, or overseas

A GLAA licence holder, whether based in the UK, or overseas, must not use the services of an unlicensed person or business anywhere, whether they are based in the UK or overseas. If they do, they will breach Licensing Standard 8.1, risk licence revocation and investigation for offences under section 13 of The Gangmasters (Licensing) Act 2004.

The UK includes England, Scotland, Wales, and Northern Ireland.

Do “Agents” or “Intermediaries” need to be licensed?

It does not matter how a business describes itself; if it undertakes any of the activities listed above, then it must have a GLAA licence.

How to apply for a licence

Full guidance on how to apply for a licence can be found on the GLAA website. You must create an account via the application portal before being taken to the application form. As part of the application process, you will be required to:

- upload any documents requested to support your application. This will include ID for the person who will be the named Principal Authority¹, sample contracts with workers and evidence of compliance with the law in the country in which you are based – this typically includes details of any licence or registration held within the home country.
- go through our application inspection process. During this interview, you will be asked questions testing whether the business complies, or will comply, with the GLAA’s Licensing Standards. If English is not your first language and you feel you would benefit from a translator, then one can be provided for you to assist the inspection process.

When an application for a licence is received from an overseas business the GLAA will contact the labour inspectorate, or its equivalent, and any other appropriate authority (i.e. tax authorities) to confirm that the company is compliant with the domestic law of that country. The GLAA will use any overseas registration information provided on the application form to assist this process. The purpose of this process is to ensure that, as far as is possible, the GLAA obtains the equivalent information to that which it receives from UK Government departments with regard to UK applicants. Information sought will include whether the company has ever been sanctioned, and if so in what way, and for what offences or breaches.

We will also check domestic laws on supplying workers out of the country to ensure

¹ The Principal Authority is the person responsible for the day-to-day management of the business and is responsible for signing the declaration on the application form on behalf of the business

applicants are operating compliantly. This includes whether workers are being charged fees, and whether that is in breach of domestic legislation. Any GLAA licence holder or applicant that decides to recruit outside the UK must ensure that it understands, and is compliant with, the legal requirements that apply to it when recruiting from a non-UK country. It should also ensure that any sub-contractors it forms an association with are also compliant with the domestic labour laws in the countries workers are recruited from (as well as such sub-contractors securing a GLAA licence before they recruit workers). If they do commit a breach of the laws in the country where recruitment takes place this will be considered a breach of the licensing standards and reviewed accordingly (see Licence Standard 1.1). If we discover that an applicant does not meet the requirements of their home country legislation for supplying workers overseas, then we will not grant a licence.

Due to the nature of the application checks we undertake, any application received from an overseas business may take longer than an application received from a UK based business. However, the application inspection will be conducted virtually in most cases and therefore can be undertaken as soon as a suitable date can be agreed between the applicant and the GLAA inspector.

The GLAA Licensing Standards

We require all applicants and licence holders to comply with the GLAA's Licensing Standards; these can be found on our website, please see link below.

Businesses based outside the UK are advised to pay particular attention to Licensing Standard 7.1 which covers fees and providing additional services. This Standard prohibits charging workers a fee for work-finding services. Even if charging fees is legal in the Applicant's home country, as the work being done will be in the UK, workers must not be charged for work-finding services. This is a critical standard, and any non-compliance would lead to an application being refused or an existing licence being revoked. Please refer to GLA Brief 38 for further information, see link below.

This Standard also prohibits work-finding services being conditional on the worker using other services or hiring or buying goods from the business or any person connected to them.

If a business provides other optional services and then charges the worker, we will check that the services offered are genuinely optional. These services might include helping complete application forms and arranging travel and accommodation. If we find that the use of these services is mandatory for someone to be offered a job, then this Standard will be failed. Further information is provided in GLA Brief 38, see link below.

Workers' right to work in the UK

Any workers supplied from countries outside the UK will be subject to UK immigration rules. Businesses based outside the UK must therefore ensure they are aware of the right to work requirements for workers they supply into the GLAA regulated sectors. Please refer to GLAA Brief 72 for further information on right to work checks, see link below.

How the GLAA checks compliance

Licence holders must comply with the GLAA licensing standards at all times. If we believe a licence holder is no longer compliant with our standards, we may conduct a

compliance inspection. The Principal Authority for the business will be required to make themselves available for interview; this may include travelling to the UK to be interviewed. We will also interview the workers supplied by that licence holder to check how they were recruited, even if the licence holder doesn't have an ongoing relationship with the worker. Further checks may also be conducted with overseas labour inspectorates. This may result in an inspection in that country by the labour inspectorate under its powers if it thinks that there may be breaches of its domestic legislation.

Subcontracting arrangements

If you subcontract with other labour providers to supply you with workers from overseas, you must ensure that

- a) you are aware of the labour laws in the country you are recruiting from, and
- b) all parties in your supply chain are compliant with those labour laws.

As a responsible licence holder, we would expect you to come forward and report any concerns you may have regarding the recruitment of workers in your supply chains. This is even more important where workers are recruited from overseas and may have extra vulnerabilities, e.g. language barriers.

If you are offered financial incentives to subcontract with one labour provider over another, then we request that you also report this to the GLAA without delay.

This also applies if you are Seasonal Workers Scheme Operator.

Offences

The Gangmasters (Licensing) Act 2004 includes a number of criminal offences that apply to both labour providers and labour users.

Within the GLAA regulated sector it is illegal to:

- Act as a gangmaster without a licence - the maximum penalty for operating without a licence is 10 years in prison and a fine
- Enter into an agreement with an unlicensed gangmaster - labour users must only use workers supplied by a licensed labour provider for roles in the GLAA sector. The maximum penalty for using an unlicensed gangmaster is six months in prison and a fine
- It is an offence for a person to possess a document - either false, improperly obtained or belonging to someone else - with the intention of inducing someone to believe he, or someone else, is licensed by the GLAA.
- It is also an offence to obstruct a GLAA officer in the course of their duties.

Further information

GLAA website: [GLAA](#)

GLAA legislation: [Gangmasters - Legislation - Modern Slavery Act - GLAA](#)

GLAA guidance on who needs a licence: [Guidance on who needs a licence \(gla.gov.uk\)](#)

Do I need a GLAA Licence: [I supply workers - Do I need a GLAA licence? - GLAA](#)

GLAA Licensing Standards: [Licensing Standards October 2018 Final reprint Jan 2020 \(gla.gov.uk\)](#)

GLA Brief 38 – Job Finding Fees and Providing Additional Services: [glabrief-38-jobfindingfeesandprovidingadditionalservices.pdf](#)

GLAA Brief 72 – Right to work checks from 1 July 2021 - [GLAA Brief - Right to work checks - June 2021 - GLAA](#)

If you have any questions about this Brief, please contact the GLAA helpline on 0345 602 5020 or email licensing@gla.gov.uk.

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