

Gangmasters (Appeals) Regulations

Guide for people making an appeal

NOTE: This guidance is intended as a supplement to the detailed legislation and does not provide an authoritative statement of the law

General

1. The Appeals Secretariat will guide you through the appeals process and, if you have any questions will be pleased to help you (for contact details see paragraph 34).
2. If you are not sure whether to appeal or whether you need an oral hearing, you should seek advice from a solicitor or other professional adviser. If you belong to a trade association it may be able to help you. Advice can also be obtained from the Citizen's Advice Bureau (www.nacab.org.uk or in Northern Ireland, www.citizensadvice.co.uk) or a law centre. If there is an oral hearing you should consider whether you need a lawyer to advise you or to act for you. In Scotland you may be able to obtain Legal Aid.
3. Appeals will be determined by an "appointed person". In England, Wales and Scotland the appointed person will be selected from members of the panel of Employment Tribunal Chairmen. In Northern Ireland the appointed person will be selected from the panel of Industrial Tribunals Chairmen.
4. Where there has been a serious breach of your licence conditions and the Gangmasters Licensing Authority's (GLA) decision has immediate effect (see paragraph 7), an appeal does not alter the date on which the GLA's decision comes into effect. However in all other cases, where a licence is the subject of an appeal the licence will continue to apply and be subject to its original terms and conditions, until the appeal has been determined by the Appointed Person.

What should you read?

5. Everyone should read paragraphs 1 – 9 and paragraphs 28 – 34:
 - If the Normal Procedure applies you should read paragraphs 10 – 23;
 - If the GLA has decided to revoke your licence with immediate effect, the fast track (expedited) procedure applies. You should read paragraphs 24 – 27. You may find it helpful to read paragraphs 14 – 23 also.

When can I appeal?

6. You can appeal against:
 - a decision made by the GLA to:
 - revoke a licence
 - refuse a licence application
 - modify a licence
 - refuse consent to the transfer of a licence and;
 - the conditions applied to a licence

This will include cases where the GLA modifies a licence by attaching additional licence conditions (ALCs).

Which procedure will apply?

7. The fast track (expedited) procedure will apply where the GLA has decided to revoke your licence and the GLA's decision has immediate effect (i.e. it comes into effect 5 working days or less from the date of the decision document). If the fast track procedure applies **you must act quickly** – (see paragraphs 24 – 27).
8. In all other cases the normal procedure applies (see paragraphs 10 - 23).
9. If you, the GLA and the Appointed person agree, the appeal can be determined without an oral hearing – (see paragraphs 15 and 16).

Normal procedure

10. Before making an appeal you should ensure that the decision made by the GLA comes within one of the categories listed at paragraph 6 above. Annex 1 sets out the time limits that will normally apply.

Step 1 - Application

11. To make an appeal you should complete form Gmappeal1, (either using the copy included at Annex 2 to this leaflet or downloading a copy from the Defra website **www.defra.gov.uk/farm/gangmasters**). Alternatively you can produce your own, similar document. Which ever option you use, you must:

- include an address to which notices and documents relating to the appeal are to be sent;
- state clearly and comprehensively the grounds for your appeal;
- attach all supporting documents referred to in your appeal.

12. The completed form and any attachments should be sent to the Appeals Secretariat at the address shown at paragraph 34 below. Alternatively the form can be sent to the Secretariat by Email using the email address at paragraph 34. Where the form is sent by Email and it is necessary to send supporting documents in hard copy form they should be attached to a hard copy of the completed form which must be clearly marked "COPY". The documents should be sent immediately to the Secretariat.

Step 2 - Receipt and acknowledgement

13. Your application will be checked and acknowledged and if any further documents are required in support of your appeal you will be told when you must send them to the Secretariat. Your appeal will be sent to the GLA who will normally be given 20 working days (beginning with the date on which the GLA receives its copy) to reply.

Step 3 - GLA's reply / is oral hearing necessary?

14. The Secretariat will send you a copy of the GLA's reply together with any supporting documents. You will be asked at this stage to let the secretariat know if you agree that your appeal can be determined without an oral hearing. Even if you confirm that you do not want an oral hearing, it will be necessary to have one if that is the wish of the GLA or if the Appointed Person decides that an oral hearing is necessary.

Determination without an oral hearing

15. If you, the GLA and the Appointed Person agree that no hearing is necessary, your appeal will be determined by the Appointed Person. You will be sent a copy of the Appointed Person's decision and the reasons for that decision and will be notified of the date the decision will take effect. You should normally receive the written notification within four weeks of the appointed person determining your appeal.
16. This brings your appeal proceedings to an end.

Oral hearing procedures

Step 1 - Arrangements for the hearing

17. The Secretariat will discuss the date of the hearing with you by telephone or Email. Once a date has been agreed by all parties you will be sent formal notification of the time any place of the hearing (hearings will normally be held locally to you).
18. The Secretariat will ask you to confirm whether you intend to appear and / or whether you will be represented by a third party at the hearing. If you are appearing or being represented you will be asked to specify any witnesses you intend to call. You will also be asked to provide a signed witness statement for each witness setting out the evidence the witness intends to give at the hearing. You can send written representations to the Appointed Person. Any representations or statements you make will be sent to the GLA and the GLA's representations or statements will be sent to you.

Step 2 - The hearing

19. Hearings are formal and will take place in a room set up in the style of a court room. They are normally held in public and the Press may attend.
20. The Secretariat will provide advice on procedural matters before the hearing begins.
21. The Appointed Person may adjourn the hearing if he / she thinks there are good grounds for doing so.
22. The Appointed Person may announce his / her decision at the end of the hearing. Whether or not this happens, you will receive written notification providing details of the decision and a statement giving the reasons for the decision taken. You will also be notified of the date the decision will take effect. You should normally receive the written notification within four weeks of the hearing.
23. This brings your appeal proceedings to an end.

Fast track (expedited) appeals

24. If you have concluded that the fast track procedure applies (see paragraph 7 above) and satisfied yourself that the decision made by the GLA comes within one of the categories listed at paragraph 6 above, you must act quickly. An appeal must be received by the Secretariat no more than **10 working days** after the date of the decision document sent to you by the GLA.

Step 1 - Application

25. The procedure for making an appeal is the same as under the normal procedure: see paragraphs 11 and 12 above.

Step 2 - Receipt and acknowledgement

26. On receipt of your application the Secretariat will check and acknowledge your application. The Secretariat will arrange for a person to be appointed to determine your appeal.

The fast track procedure

27. The appointed person will consider your application. The fast track procedure will apply unless the appointed person decides that in the interests of justice this is not appropriate. Under the fast track procedure, a case should be determined not later than 35 working days after the date on which form Gmappeal 1 was received. The appointed person will determine the applicable procedure and time limits, which may differ from those in the Regulations, and he or she can vary them as the case proceeds. You will be notified of the procedure and time limits and any changes to these by the Secretariat.

General points

28. The following points apply to all appeals:

- The Secretariat will allocate you a **case number** when your appeal form is acknowledged. After that you should quote your case number in any correspondence and include it in the title of any Email.
- You must obtain the consent of the Appointed person if you wish to **amend your appeal or amend / withdraw material** submitted in support of your appeal.
- You can **withdraw an appeal** at any time before it is determined. If you withdraw your appeal you cannot submit a second appeal on the same grounds in relation to the same disputed decision. If an appeal is withdrawn the Secretariat will notify you and the GLA when the disputed decision comes into effect.
- If the GLA informs the Secretariat that it no longer wishes to uphold a disputed decision the appointed person will determine the appeal in your favour (see paragraph 30 below).
- **Documents can be delivered** by hand or sent by post, fax or email. Where documents are sent by post you may wish to consider using next day guaranteed delivery or Recorded Delivery.
- If you use **Email**, original documents should be in Word or Word compatible format, scanned documents should be in .tif file format.
- If we send documents to you they will be in Word 2000 or a Word compatible format.
- Where **documents require a signature** e.g. the Appointed person's decision these will be sent to you by post.
- The appointed person has the power to **extend the time for making an appeal, replying or making any other response** on the application of a party or of his / her own initiative, where he / she considers there are reasonable grounds to do so. This applies whether or not the time has already expired. An application for an extension of time should be submitted to the secretariat, on form Gmappeal 2. There is a copy at Annex 3. The Secretariat will notify you and the GLA of any extension of time granted by the appointed person.
- **Exhibits and other original documents** provided for a hearing will be returned to you by the Secretariat either on the day of the hearing or subsequently by post.

What happens when the Appointed Person has determined the appeal?

29. The appointed person can allow or dismiss an appeal. If the appeal is dismissed the GLA's decision stands. Where the normal procedure applies, the GLA's decision will take effect on a date determined by the appointed person. In the case of the fast track procedure, the GLA's decision will already have taken effect.
30. If the appointed person allows an appeal in respect of an application for a licence or the transfer of a licence, the application will be referred back to the GLA. In this situation it would be usual for the application to be accepted unless there was fresh evidence for refusing it. If the appointed person allows an appeal in respect of a decision by the GLA to modify or revoke a licence and the conditions attached to the licence, the case would be referred back to the GLA. In these situations it would be usual for the revocation, modification or condition to be withdrawn unless there was fresh evidence supporting the original decision.

Legal authority

31. The Gangmasters (Licensing) Act 2004 established the GLA and associated licensing arrangements. Section 10 of the Act requires the Secretary of State to establish an appeals process. The appeals procedures are set out in the Gangmasters (Appeals) Regulations 2006 SI No. 662. There are separate but similar Appeals Regulations in Northern Ireland.

Complaints

32. If you are dissatisfied with the service you receive you should contact the Gangmasters Appeals Complaints Co-ordinator, Defra, Innovation and Better Regulation for Farmers Division, Area 3A, Ergon House, Horseferry Road, London, SW1P 2AL or in Northern Ireland, Farm Policy Branch, Department of Agriculture and Rural Development, Dundonald House, Belfast BT4 3SB.
33. If you are dissatisfied with the decision made by the Appointed Person you have no further right of appeal. However you could apply for a judicial review of the decision made. An application for a judicial review must be lodged within 3 months of the decision to which it relates. You should consult a solicitor quickly if you are contemplating a judicial review.

How to contact us

34. The Secretariat can be contacted at:

The Secretariat, Gangmasters Licensing Appeals
Defra
Electra Way
Crewe
Cheshire
CW1 6GJ

Telephone Number: 01270 754231

Fax Number: 01270 754260

E-mail: gangmasters.appeals@defra.gsi.gov.uk

In Northern Ireland, the Secretariat may be contacted at:

Office of the Industrial Tribunals and the Fair Employment Tribunal (OITFET)
(Gangmasters Licensing Appeals)

Long Bridge House
20-24 Waring Street
Belfast
BT1 2EB

Tel: 02890-327-666 (between 10:00am and 4:00pm)

Fax: 02890-230-184

Annex 1

Maximum Time Limits – Normal Procedure

	Maximum / minimum time permitted (Working Days)
GLA sends decision document	
Appeal received by Secretariat	Maximum of 20 from date of decision document
Secretariat copies appeal to GLA	
GLA responds to appeal date appeal received by GLA	Maximum of 20 beginning with
Secretariat acknowledges GLA response and sends copy of response to appellant	
GLA / Appellant may agree that case can be determined without oral hearing	Time fixed by Secretariat
Provided parties and appointed person all agree that no oral hearing is required, appeal determined with no oral hearing	
Appeal determined – Appointed Person sends decision, statement of reasons and date decision takes effect to both parties	
Oral hearing	
Secretariat fix date for hearing from date that GLA's reply is received	Within a maximum of 20 days
Secretariat notifies parties of date of hearing of notification	A minimum of 15 days from date
Parties inform Secretariat if they intend to appear, be represented or call witnesses	Minimum of 10 days before date of hearing
Oral hearing held – decision may be given orally	
Appeal determined – Appointed Person sends decision, statement of reasons and date decision takes effect to both parties	

Ref No (To be inserted by the Secretariat)

FORM Gmappeal 1

THE GANGMASTERS (APPEALS) REGULATIONS 2006
Application Notice of An Appeal

PLEASE COMPLETE THIS FORM IN BLOCK CAPITALS AND USE BLACK INK AS THIS FORM MAY BE PHOTOCOPIED

To the Secretariat of the Gangmaster Licensing Appeals:

1. I,

of:

hereby appeal against the Decision of the Gangmasters Licensing Authority ⁽¹⁾ of:

under Regulation 6 of The Gangmasters (Appeals) Regulations 2006.

2. I have instructed the following solicitor (or other professional adviser) to act on my behalf:

and his/her address for the service of documents about this Appeal is:

3. The grounds upon which I base my Appeal are:

4. I attach two copies of the following documents, which I intend to produce in support of my appeal:⁽²⁾

Date: Signed:⁽³⁾

Capacity / Authority:

- (1) In order for an appeal to be valid form Gmappeal 1 must be sent to the Secretariat so that it is received
 - (a) not later than twenty working days after the date of the decision document: or
 - (b) in the case of a decision with immediate effect, not later than ten working days after the date of the decision document.
- (2) Two copies of form Gmappeal 1 and of any document, which you wish to submit, must be sent to the Secretariat at the address shown at paragraph 34 in the guide. Paragraph 12 gives guidance on the electronic submission of forms.
- (3) If signed by a person other than the applicant himself/herself, he/she should state in what capacity or by what authority he/she signs.

ANNEX 3

Regulation 13

Ref No (To be inserted by the Secretariat)

FORM Gmappeal 2

THE GANGMASTERS (APPEALS) REGULATIONS 2006 Application for an Extension of Time

PLEASE COMPLETE THIS FORM IN BLOCK CAPITALS AND USE BLACK INK AS THIS FORM MAY BE PHOTOCOPIED

To the Secretariat of the Gangmaster Licensing Appeals:

1. I, [name]

of:

[address]

hereby apply for an extension of time under Regulation 13(1) of The Gangmasters (Appeals) Regulations 2006.

2. I have instructed the following solicitor (or other professional adviser) to act on my behalf:

[name]

and his/her address for the service of documents about this Appeal is:

[please insert his/her address]

3. The nature and date of the disputed decision, which is subject of the appeal, are:

[nature]

and: [date]

4. I apply for the Appointed Person's consent to an extension of time for:

[insert details of the act for which an extension of time is applied for]

5. The grounds upon which I base my application for an extension are:

6. I attach copies of the following documents in support of my application for an extension:⁽¹⁾

Date:

Signed:⁽²⁾

Capacity / Authority:

- (1) Two copies of this application and of any document, which you wish to submit, must be sent to the Secretariat at the address shown at paragraph 34 in the guide. Paragraph 12 gives guidance on the electronic submission of forms.
- (2) If signed by a person other than the applicant himself/herself, he/she should state in what capacity or by what authority he/she signs.

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