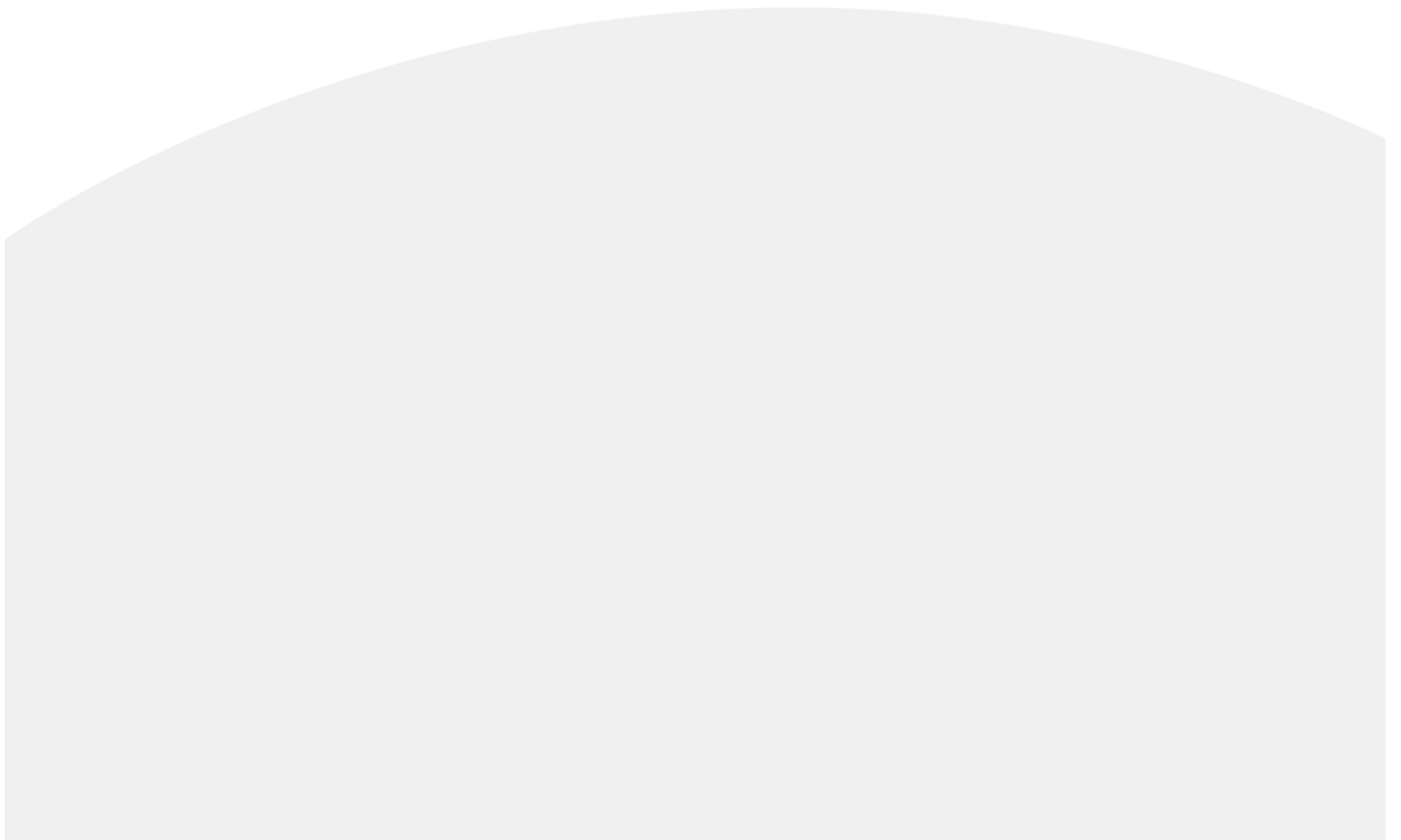




GLA12/7.2

Farmer-to-Farmer Loans

October 2006



BOARD PAPER REFERENCE – GLA12/7.2 – Farmer –to-Farmer Loans

Issue

1. To consider the GLA position on the small-scale loans of workers between farmers that fall outside the scope of the current exclusions from licensing.

Recommendations

2. The Board is invited to approve a proportionate approach to enforcement action in relation to farmer-to-farmer loans of workers.

Background

3. Paragraphs 4 and 5 in the Gangmasters Licensing (Exclusions) Regulations 2006 provide two possible exemptions for farmers who loan workers to other farmers. The farmer must fulfil the criteria in the regulations in order to qualify for the exemptions. This includes a requirement that the total hours the worker works for the farmer he is being loaned to, are not more than twenty per cent of the total hours he worked for his employer in the previous three months.
4. The NFUS and the Scottish Machinery Ring Association (SMRA) have expressed concerns that the twenty per cent requirement is too restrictive and does not reflect seasonal demands. The NFUS and SMRA consider a significant number of small-scale loans of workers between farmers could exceed this threshold particularly at the peak of the harvest season. They feel this has the unintended consequence of capturing farm businesses who only loan workers on an ad hoc basis within the licensing scheme.
5. The NFUS and SMRA have concerns that, farmers will choose not to employ workers leading to a loss of employment opportunities in the industry. Many farms only employ a person where there is an expectation that the worker will be loaned to other businesses for part of the year. This will not be viable if the primary employer has to pay for a licence. Given it is now an offence to supply workers without a licence, they have requested an urgent review of this exclusion.
6. Defra and GLA officials discussed this issue with representatives from the NFUS and SMRA on 5 September 2006. There is an opportunity to amend the Exclusion regulations following the review after the first year of operation. However, Defra has made it clear that it will be necessary to ensure that any change does not create a loophole, which an unscrupulous labour provider could use to avoid the need for a licence. Defra have advised that a change could be made sooner if evidence can be presented to demonstrate that the Exclusion regulations are having an adverse impact and that the risk of associated with any change are minimal. The NFUS and SMRA have agreed to compile this evidence although to date no new evidence has been provided.
7. GLA enforcement activity against labour providers will be targeted according to risk. The GLA will not specifically be targeting farmer-to-farmer loans and can confirm that, unless there is evidence of significant exploitation of workers, it sees such activity as a low risk in relation to the deployment of enforcement

resources. This proportionate approach will reassure farmers who are concerned about the threat of prosecution.

Next Steps

8. If approved, the GLA will write formally to the NFUS and SMRA, as well as representative organisations in England and Wales, confirming this approach.