



House of Commons
Environment, Food and Rural
Affairs Committee

Gangmasters (follow up): Government Reply to the Committee's Report

Twelfth Special Report

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The Environment, Food and Rural Affairs Committee

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TWELFTH SPECIAL REPORT

The Environment, Food and Rural Affairs Committee reported to the House on *Gangmasters (follow up)* in its Eighth Report of Session 2003–04, published on 20 May 2004 as HC 455. The Government's Reply to the Report was received on 29 July 2004.

Government response

Introduction

The Government welcomes the opportunity to respond to the Select Committee's second (follow up) report on gangmasters. This report, like the first, has helped to maintain interest in illegal activity by gangmasters.

The Government welcomes the support of the Committee for Jim Sheridan's Private Member's Bill on the licensing of gangmasters and it agrees with the Committee on the need to introduce secondary legislation as soon as possible in order to implement the licensing scheme. Now that the Bill has received Royal Assent the Government will be working closely with non Government organisations and the industry to set up the Gangmaster Licensing Authority by April 2005 so that it can commence issuing licences to gangmasters (recommendations 11 and 12).

The Government also welcomes the acknowledgement by the Committee of the work undertaken by personnel engaged in enforcement activity against gangmasters who act illegally.

The Government rejects the suggestion by the Committee that its approach to tackling illegal activity by gangmasters has been characterised by a lack of urgency (recommendation 6). The Government also refutes the assertion by the Committee that the Ministerial response to the Morecambe Bay tragedy reflected an underlying confusion about the responsibilities of Ministers in relation to illegal activity by gangmasters (recommendation 7). The Government accepts that there is a need to improve the co-ordination of its policy towards gangmasters who act illegally (recommendations 9 and 10), but does not believe that it would be either advantageous or always possible to co-ordinate all enforcement activity against illegal gangmasters through Operation Gangmaster fora (recommendation 4).

Recommendations 1–3 and 5

The reality, then, is that the Government is no nearer obtaining a comprehensive picture of the scale and nature of the problem of illegal gangmaster activity than it was when we published our original report eight months ago. Other than issuing a tender for one piece of limited research, the Government has made no progress. So

we repeat our previous observation: the Government cannot develop an appropriate policy response to a problem, or allocate appropriate resources, if it cannot make even a rough estimate of the scale of that problem. (Paragraph 11)

We strongly recommend that the Government take urgent steps to develop a better picture of the extent and nature of illegal activities by gangmasters. It should do so through a combination of research in the field and by centrally compiling data from sources such as regional Operation Gangmaster operations. Anecdotal evidence suggests that this is a widespread problem: the Government should now produce figures which at least attempt to *estimate* how widespread it is. (Paragraph 12)

We recommend that the Government look at the various tenders it issues which relate to research into gangmaster activity, and consider what scope there might be for amalgamating the 'pot' of funding available to allow for more extensive, better-funded research in future. (Paragraph 13)

We repeat our earlier recommendation that the Government take steps better to understand the nature and scope of illegal activity by gangmasters. Unless it does so it is extremely hard to assess how effective enforcement has been. (Paragraph 22)

The Government's response to the Committee's first report explained that agricultural "gangmasters" (or labour providers) involved in illegal activities will seek to hide such activities from Government enforcement agencies. As a result any research undertaken is likely to underestimate the true scale of these activities. By definition, it is difficult to establish the scale of the problem, especially since illegal gangmaster activity will 'ebb and flow' with the seasons.

The Home Office has implemented a major programme of research to obtain better information on illegal workers and people who are illegally resident in the UK. The results of this research will be used to help tackle illegal migration and illegal working.

Plans are also being developed for new qualitative research with employers to explore their use of legal and illegal migrant workers, and studies of the prevalence and nature of illegal residence and illegal working within certain areas of the UK. It is expected that the preliminary results from this research will be available in Spring 2005. The Home Office's programme of research will investigate the use of illegal working within the context of migrant workers more generally, and will explore, but not focus primarily on, the role of gangmasters.

The principal objectives of much of this research are to improve understanding of the nature of illegal working and the reasons why illegal workers are used. It is not intended to quantify the extent of illegal working. By investigating illegal working within the context of other migration routes, the research will assist in the development of policies which tackle the root causes of illegal working and are focused on implementing sustainable solutions. The other advantages of this approach are that it should help to

reduce the sensitivity and hence the difficulty of conducting research on illegal working, and provide a better understanding of the role of labour provider activity in relation to wider recruitment practices.

Operational enforcement data prepared by Home Office will be used to inform the design of the research, and operational personnel will be closely involved in the programme. However, initial investigations have shown that it is not possible to use operational data in itself to develop estimates of the overall scale of illegal working. Home Office research is being developed in collaboration with other government departments, and opportunities will be actively sought for the joint funding and/or management of projects.

With regard to research in agriculture, the Government explained in its memorandum to the Committee that Defra was commissioning research into the use of seasonal and casual labour in agriculture and related food processing and packing sectors. This is a major project, costing almost £100,000, and is now underway. The results of the research should be available at the beginning of next year.

This work will look at the supply of labour to the fresh produce sector and will consider the role played by gangmasters in this process. It will also, in line with the recommendation of the Select Committee's first report, look at the role played by the Seasonal Agricultural Workers Scheme (SAWS) in meeting the industry's labour needs. The information obtained by this research will both help to inform future decisions specifically about the size of the SAWS quota and more generally about action to tackle gangmasters who act illegally.

The Government also collates information from its operational activity about illegal activity by gangmasters. For example the Department for Work and Pensions' (DWP) Agricultural Investigation Team (AIT) manages an intelligence database which uses information drawn from Operation Gangmaster and AIT work to produce intelligence reports that help inform the targeting of future Operation Gangmaster activity. DWP is currently consulting with participating departments to consider how best to capitalise on this database and will report the findings of this review to the Informal Economy Steering Group. Customs & Excise is currently analysing the data it holds about the lack of compliance by gangmasters in order to prepare a more accurate estimate of the scale of VAT fraud and infringement of the VAT rules by gangmasters. Since the beginning of this financial year, the Inland Revenue has been setting up new specialist enforcement units to tackle infringements of Income Tax rules by gangmasters. These units will be building up a picture of gangmaster activity as their risk assessment programme develops and they will share this information with other departments so far as the legal gateways allows. This will be done through the Operation Gangmaster fora and on a regional and national level as appropriate. In particular, Inland Revenue will be working very closely with Customs & Excise (in the period before the two are integrated in a single revenue department), as a common objective of both departments is to tackle tax fraud by gangmasters.

As recommended by the Committee, the Government will draw on the information generated by the research projects mentioned above and the increasing body of data about illegal activity obtained from operational activities to develop as comprehensive a picture as possible of the level of illegal activity by gangmasters.

Recommendation 4

There is some evidence, such as that presented by Geraldine Smith MP, that enforcement continues to be held back to an extent by a lack of resources and an absence of coordination. We are surprised that so much current enforcement activity is apparently carried out by agencies acting alone, rather than in concert through Operation Gangmaster. We once again urge the Government to coordinate all attempts to enforce existing legislation, even if only by ensuring that agencies report their activities to regional Operation Gangmaster meetings, and through them to central Government. That said, there is also evidence of increasing levels of enforcement activity, and we commend all those involved for their efforts. (Paragraph 21)

The Government welcomes the Committee's acknowledgement in this second report of the efforts of those involved in its enforcement activity against gangmasters who act illegally. We are pleased that the commitment of operational staff on the ground has now been recognised. Those members of the Committee who plan to visit an Operation Gangmaster forum will be able to see at first hand the dedication of the staff involved. We are sure such visits will help the Committee to better understand the nature of the problem and the extent of the activity against it.

The Committee has raised the issue of resources available for law enforcement activity, and the degree to which such activity is co-ordinated. Of course the resources available to Departments for enforcement activity are finite, and such activity must therefore be prioritised and carried out on an intelligence-led basis to secure best value in public interest terms. However, we do not accept the Committee's suggestion that lack of resource has compromised the effectiveness of operations. The Government's memorandum to the Committee provided information about the increasing level of enforcement activity in this area.

From April 2004 Customs & Excise has deployed 80 new staff allocated in seven regional operational teams set up to tackle VAT abuse by gangmasters. These teams work closely with colleagues in other Government departments, exchanging intelligence in the drive to tackle the problem. Team representatives attend Operation Gangmaster fora and play a full and active role to ensure anti-fraud activity is co-ordinated and directed for maximum impact. The successful prosecution earlier this year of four labour providers, all working within the same supply chain, has already resulted in custodial sentences for three of these totalling over 5 years. A fourth labour provider is due to be sentenced on 23 July.

Inland Revenue have already set up two specialist teams to tackle illegal activity by gangmasters. In the two years to March 2004 these teams settled 78 investigations with additional liabilities in excess of £10m being identified. Since April 2004 the Revenue has been establishing four additional teams to tackle non-compliant gangmasters and these teams are now largely in place. Inland Revenue plan to set up a further team in Northern Ireland from April 2005 which will then ensure that the activity of these teams covers the UK. The personnel engaged in this activity are front line investigators tackling Corporation Tax, Income Tax and PAYE irregularities. The teams are based in regional locations to ensure local intelligence and information is gathered and acted upon. They work closely together and with other Government departments under the umbrella of Operation Gangmaster.

UK Immigration Service activity into illegal working has increased over recent years with a marked increase in activity in the last year. A total of 697 operations into illegal working were reported in 2003-04, of which 39 were related to farms or packhouses. This compares with 301 operations reported in 2002-03, an increase of 132%. These figures serve as an indicator of what is being achieved, and do not reflect the full extent of Immigration Service activity against illegal working. The Home Office is currently reviewing the way in which immigration legislation is enforced, to establish whether effectiveness can be further improved.

There are now 9 Operation Gangmaster fora co-ordinating joint operations at a local level. Currently there are 13 live operations and, Ministers and senior officials monitor and evaluate operational activity on a regular basis. Operation Gangmaster produces quarterly performance reports for both the Informal Economy Working and Steering Groups. The progress of operations is reviewed monthly by Chris Pond as the DWP Minister responsible for Operation Gangmaster.

Operation Gangmaster brings together departments and agencies in cross-government initiatives where such joint activity would prove more effective. Within this context the exchange of information, the building up of intelligence dossiers and the carrying out of joint operations through the Operation Gangmaster regional fora are subject to continuous review and improvement. There are also arrangements in place to ensure that where significant operations are being conducted or planned by individual departments, they are made known to the Operation Gangmaster fora. Operation Gangmaster does not seek to subsume routine compliance work undertaken by individual agencies against illegal labour providers. Labour providers represent different risks to individual Government departments. Therefore it is not always possible, nor would it be advantageous, for all enforcement activity to be co-ordinated through the Operation Gangmaster fora. To do so could hinder the routine compliance work of individual departments. In view of this the Government confirms that it does not intend to remove the distinction between individual departmental enforcement effort and that which is coordinated through Operation Gangmaster. However, more generally the Government is currently considering how workplace enforcement activity by

departments contributing to a reduction in illegal migrant working and a reduction in the exploitation of illegal migrants, might be brought together in a more effective way.

Recommendation 6

It is regrettable that Ministers do not seem to have been sufficiently seized of the urgency of the need to deal with illegality on the part of gangmasters until prompted into action by external pressures, principally the Gangmasters (Licensing) Bill. We trust that they now understand how important this matter is, and will commit themselves to continuing to treat it as a high priority in future. (Paragraph 26)

The Government rejects the suggestion that it has only been prompted to take action against illegal gangmasters by the Gangmasters (Licensing) Bill.

In the memoranda the Government has submitted to the Committee for this and its first inquiry and in the Government's response to the Committee's first report, we described in some detail the range of policy responses that have been implemented to tackle illegal activity by gangmasters. These include the establishment of Operation Gangmaster and the enhancement of existing enforcement effort by individual Government departments. They also include the development of Codes of Practice on the employment of seasonal and casual labour on farms and in packhouses and the development, in conjunction with the Ethical Trading Initiative's Working Group on working conditions for seasonal labour in the UK food industry, of a Code of Best Practice for Labour Providers. For example, during 2003/04 the Immigration Service was actively involved in supporting two police-led prosecutions of gangmasters involved in committing serious immigration and money-laundering offences. In one case, six individuals received sentences ranging from 2 years 9 months to 7 years, and the police are seeking to recoup up to £4 million under the Proceeds of Crime Act. In another case, two individuals each received sentences of 7 years imprisonment. Such cases are an indication of the effort, length of time and resource required for these complex investigations.

The Gangmasters (Licensing) Bill, which the Government fully supported and helped to re-draft into a focussed and effective piece of legislation has provided an opportunity to introduce further measures to address illegal activity by agricultural gangmasters and those in related sectors. As Lord Whitty explained in the evidence he provided to the Committee on 23rd March, the Bill provides a vehicle by which the work with the Ethical Trading Initiative to develop and trial on a voluntary basis a Code of Best Practice for agricultural labour providers can be placed on a statutory footing. Therefore, from the outset the Government has made it clear that it supported the objectives of the Bill. The way in which the Bill was being amended in order to create a well-focussed licensing system and improve Government's ability to take a firm grip on illegal activity was explained by Alun Michael in the House of Commons. During the passage of the Bill through Parliament we have worked closely with Jim Sheridan and his supporters to ensure that we develop a Bill which is both practical and effective while seeking to avoid the imposition of disproportionate burdens on industry.

Recommendation 7

On reflection we are sure that the Government will agree that a Minister should have visited Morecambe Bay much sooner after the incident there, to offer condolences to the community involved, and to support the emergency services. We are concerned that Ministerial reaction to the incident reflects an underlying problem of confusion and uncertainty, with no-one in Government quite sure who is responsible for policy relating to gangmasters and illegal working. (Paragraph 28)

The Government does not accept that it is appropriate for Ministers to descend on the scene of a tragedy. The Morecambe Bay tragedy called for an immediate operational, not a political, response. On learning of this incident the Department for Work and Pensions (DWP) immediately seconded an official to assist the Police team investigating the tragedy. In addition the Immigration Service deployed resources to assist the Police with the identification of both the survivors and the deceased immediately they were notified of the incident on the morning of 6th February. Immigration Service resources also assisted the Police with their investigation and they continue to be deployed to tackle immigration offences and illegal working practices in the area.

The Health and Safety Executive (HSE) was involved immediately in the aftermath of the tragedy and is continuing to assist the Police-led investigation. HSE quickly prepared guidelines for safe working in estuaries and tidal areas, in consultation with local fishermen, the local Sea Fisheries Committee, the Maritime and Coastguard Agency and others. HSE and the local Sea Fisheries Committee have sent the guidelines to all permit holders (900+) and others cockling on Morecambe Bay. They have been used as a benchmark for a programme of HSE inspections on the Bay in association with the police. The guidelines have been translated into Chinese by the North West Chinese Council and have been handed to any Chinese people encountered during HSE inspections. With the support of Defra, these guidelines have been sent to Sea Fisheries Committees at other estuaries and tidal areas around Great Britain as a basis for similar joint inspections / enforcement initiatives during 2004/05. This should help minimise the chances of such a tragedy occurring elsewhere on the British coastline.

The North West region Operation Gangmaster forum convened on 18th February. Discussion at the forum included a detailed analysis of activity by gangmasters in the region.

So far as Ministerial accountability is concerned, Alun Michael (Defra Minister of State for Rural Affairs) responded on behalf of the Government to an urgent Parliamentary Question about the Morecambe Bay tragedy tabled on 9th February by Geraldine Smith MP. In responding to the question, Mr Michael offered, on behalf of Government, condolences to the friends and families of the victims and paid tribute all who were involved in the rescue effort. On 11th February, Home Office Minister Baroness Scotland responded on behalf of Government to a question tabled in the House of Lords about the tragedy. During the period before Ben Bradshaw visited Morecambe Bay on 26th

February, the Government maintained regular contact with Geraldine Smith MP and Andrew Miller MP who were active in representing the views of local people about the tragedy.

Therefore, the Government does not agree that its response to the tragedy in Morecambe Bay reflects confusion over policy responsibility between individual departments and Ministers. In our reply to the Committee's first report on gangmasters we clarified Ministerial responsibilities in the areas of policy and enforcement activity in connection with gangmasters who act illegally. We consider that the response of both Ministers and enforcement personnel to the tragedy accurately reflected their responsibilities.

Recommendation 8

We urge the Government to take seriously the threat of illegality on the part of gangmasters and ganged labour from the European Union accession states. It should, as part of its research into the problem, look at this particular issue and, if it proves to be a matter of concern, take steps to address it. (Paragraph 30)

The Government can confirm that it does take seriously the threat of illegal activity by gangmasters and the exploitation of workers from the new Member States. The Government is keen to make sure that all those who wish to come and work in the UK are aware of their employment rights and responsibilities. We recognise that there may be a need to undertake specific awareness raising exercises so that migrants from the new Member States understand the implications of working overseas in general and in the UK in particular.

The Department of Trade and Industry and the Foreign and Commonwealth Office have already worked successfully with the Portuguese Government and NGOs to produce and distribute a leaflet on agency worker employment rights and responsibilities to the Portuguese community in the UK and to prospective workers in Portugal. We are building on this work with new Member States to produce, where they see a need, similar leaflets for their nationals. Leaflets on working as an agency worker overseas, in particular in the UK, have already been prepared for Polish and Lithuanian nationals and were launched in the UK, Poland and Lithuania in the week beginning 28th June.

The Government can also confirm that gangmasters from the new Member States and countries outside the EU are covered by the provisions of the Gangmasters (Licensing) Bill. Clause 5(3) of the Bill provides that the provisions of the Bill apply to a person acting as an agricultural gangmaster in the UK or elsewhere in relation to work to which the Bill applies. This ensures that an overseas gangmaster supplying or using workers to do work in the UK must have a licence. This is intended primarily to bring agents of overseas gangmasters operating in the UK within the jurisdiction of the new legislation.

The Home Office will ensure that the threat of illegality on the part of gangmasters and ganged labour from the new Member States is considered in ongoing research. They will also ensure that this issue is taken into account in the separate work being conducted for the Prime Minister to monitor the impact of accession.

Recommendations 9 and 10

We note that the chart refers to Cabinet Sub-committee MISC20. We recommend that the Government provide us with details of the role played by the Sub-committee in determining Government policy relating to gangmasters. (Paragraph 32)

We are convinced that the overly complicated structure of bodies put in place to deal with this cross-departmental issue hinders rather than helps a coherent response to the problems of illegal working and of gangmasters. We recommend that the Government rationalise and streamline the steering groups, working groups and other bodies that operate in this policy area. Currently co-ordination of activities appears only to take place on the ground: we recommend that a single co-ordinating body for illegal working and the informal economy be established. We again recommend that a single Minister be made clearly responsible for the issue. Given the wider responsibility to be taken on by that Minister we accept that the responsible Minister probably should not be from Defra - a Minister from the Home Office would be more appropriate. (Paragraph 34)

The Ministerial Committee MISC 20 is chaired by the Home Secretary. Its purpose is to consider the social and economic aspects of asylum and immigration issues. These terms of reference encompass the Government's strategy for countering illegal migrant working, including action against illegal gangmasters.

The Government does not believe that it would be realistic for a single Minister in any department to take sole responsibility for co-ordinating action against illegal working and the informal economy. Lord Grabiner's report on the Informal Economy, published in March 2000, explained that those operating in the informal economy are likely to be breaching a wide range of regulations, including tax, immigration requirements, the minimum wage and health and safety standards. Whilst Home Office Ministers are responsible for taking enforcement action against illegal migrant working and human trafficking, it would not be practical or appropriate for them to assume the responsibility of HM Treasury colleagues for action against non-compliance with tax or VAT obligations, nor the Department for Trade and Industry's responsibilities for enforcing the national minimum wage and Defra's responsibility for enforcing the agricultural minimum wage.

However, the Government agrees that it should improve its co-ordination of policy towards illegal migrant working, including gangmasters who exploit their workers. The Prime Minister has therefore amended the terms of reference of MISC 20 to make explicit that the Committee's remit includes co-ordination of the Government's response to illegal migrant labour and gangmasters who act illegally. The new terms of

reference now read, “To consider the social and economic aspects of asylum and immigration issues, including co-ordination of the Government’s response to the problems of gangmasters and illegal migrant labour”. He has also decided to appoint the Minister for Citizenship, Immigration and Nationality as an alternate chair for MISC 20 to allow the Committee to meet more frequently to oversee implementation of the Government’s strategy on illegal migrant working and gangmasters who act illegally.

The current network of official groups will provide reports and information to MISC 20, and the structure of these groups will be kept under review. The need for further change will be dictated by the reporting requirements set down by Ministers. The Government does not accept the Committee’s view that the current structure necessarily hinders the development of a coherent response to illegal migrant working and gangmasters who act illegally. In practice, there is a considerable overlap in membership between the groups, each of which has a particular focus which might be lost were the group to be abolished. For example, it must be appropriate that the Gangmaster Co-ordination Group meets to consider specific issues relating to the introduction of statutory regulation into the agricultural labour provision sector. Similarly, the Informal Economy Working Group meets at practitioner level to monitor closely the progress of Operation Gangmaster and other joint working activity. The Illegal Working Steering Group provides a consultative forum to enable Government and key stakeholders (such as the TUC, CBI, STUC and representatives of relevant commercial sectors) to discuss practical solutions to the problem of illegal migrant working.

Recommendation 11

We are now persuaded that licensing and registration are required to deal with the problem of illegal gangmasters. Therefore we support the Bill, and call on the Government to ensure that time is made available - in Government time if necessary - for its successful passage. However, the Bill cannot be regarded as a panacea: greater political will and resources are required to ensure that the provisions of the Bill, and of existing legislation, are enforced. (Paragraph 40)

From the outset the Government fully supported the objectives of the Gangmasters (Licensing) Bill and worked with the Bill’s sponsors to ensure its smooth passage through Parliament. As a Private Members Bill it is right that the Bill should have been handled in accordance with the Parliamentary procedures that are in place to deal with legislation brought forward in this way.

The Bill has now successfully completed its passage through Parliament and received Royal Assent on 8th July 2004. It has widely been acknowledged that this success was achieved because of the effectiveness of joint working between Jim Sheridan and supporting MPs, Ministers and officials at Defra and with colleagues across Government, and the consortia of organisations led by the TGWU and the NFU.

The Government agrees with the Committee's view that licensing will not solve all the problems caused by gangmasters who act illegally. However, it is committed to the effective enforcement of the gangmasters licensing scheme. This will include the provision of additional enforcement resources and use of the new offences created by the Bill by existing enforcement agencies where this would further the delivery of existing departmental enforcement objectives.

Recommendation 12

We obviously recommend that the Government introduce the secondary legislation envisaged in the amended Bill as soon as possible after the Bill is passed. It should commit itself now to a timetable for doing so. We further recommend that the Government set out its views of exactly how gangmasters and their employees can in practice be identified when working in the fields and elsewhere. (Paragraph 41)

The Government agrees with the Committee that the secondary legislation flowing from the Gangmaster (Licensing) Act should be introduced as quickly as possible. The Government expects that secondary legislation setting up the Gangmaster Licensing Authority ("the Authority") will come into force by the end of March 2005. Legislation setting out the circumstances and activities which will be excluded from the requirement to obtain a licence should be in place by April 2005 and the legislation establishing an appeals procedure under the licensing scheme by early Summer 2005. The detailed programmes for consultation and enactment of each piece of secondary legislation are provided below. Early working drafts of the Licensing Authority, Exclusions and Appeals regulations have been produced and are available in the Library of the House.

It is anticipated that a formal consultation paper on the Gangmasters Licensing Authority Regulations (complete with a draft partial Regulatory Impact Assessment) will be issued at the end of July. There will be a 12 week consultation period running to the end of October. It is hoped that the final text of the SI will be ready to be laid when the new session of Parliament starts in November. As this is an affirmative resolution SI, it is necessary to allow 12 weeks when Parliament is sitting before it comes into force. On this basis the SI should come into force by the end of March 2005.

Regular meetings are taking place with key stakeholders who are likely to be represented on the Authority. It is anticipated that there will be preliminary discussions in this forum about the Authority's Rules for the initial round of licence applications and the Rules that will apply to licence applications thereafter. It is anticipated that Defra may undertake an initial informal consultation based on the views of this group on provisions that might be included in these rules. The consultation should commence in December 2004 and run for twelve weeks (i.e. until mid to late March 2005). Comments would be passed to the Authority when it is formally constituted. Provided the Authority agrees to proceed on the basis of the preliminary proposals, revised as appropriate to take account of comments received, the Authority would undertake its

own formal consultation. On this basis the Rules SI relating to the provisional licences might be ready for laying before Parliament early in June 2005 and, as it is a negative resolution SI, it could come into force early in August. Once this SI has come into force, gangmasters will be required to apply to the Authority for an initial licence.

It is anticipated that a formal consultation paper on the Exclusions Regulations (complete with a draft partial Regulatory Impact Assessment) will be issued by mid to late September 2004. There will be a 12 week consultation period running to the end of December. It is hoped that the final text of the SI will be ready to be laid by the end of January 2005. It is a negative resolution SI and should come into force by the beginning of April 2005.

It is anticipated that the Appeal Procedure Regulations (clause 10) will be made following broadly the same timetable as suggested for the Exclusions Regulations.

The regulations setting out the "reasonable steps" that an employer should take to satisfy himself that a gangmaster has a valid licence cannot be made until the Authority has made its rules. It is anticipated that the consultation will commence in April 2005, on the basis of the Authority's draft Rules and would run until the end of July 2005. The regulations would come into force by the end of October 2005. It is emphasised that the provisions in clause 13 of the Act making it an offence for a person to enter into arrangements with a gangmaster who does not have a licence will not be brought into force before the SI defining "reasonable steps" is made.

It is not possible to give a definitive answer to the question about the identification of gangmasters in the field, until the Licensing Authority has developed the detailed operating procedures for the licensing scheme and has determined the form the licence will take and the technology involved. However the "Reasonable Steps" Regulations will set out the duties of employers of other classes of employees and the duties of

Under the proposed licensing arrangements the licence fee will be set by the Gangmaster Licensing Authority in consultation with the Secretary of State. If necessary the Secretary of State can use the powers of direction provided for in the Act to modify licence fee levels proposed by the Authority. Provisional estimates indicate that licensing fees might be in the range of £1,750 to £2,250 for a three year licence. It is anticipated that most legitimate gangmasters will be able to afford a fee at this level. Most will benefit from the level playing field that licensing will encourage through the elimination of unfair competition from illegal labour providers.

The Act provides that if a gangmaster operates without a licence they could be subject to a maximum ten year prison sentence if successfully prosecuted.

Recommendation 14

We continue to believe that retailers should take greater responsibility for ensuring that their goods are produced using high labour standards. We therefore recommend that the Government give consideration to extending liability under the Gangmasters (Licensing) Bill to retailers which do not take reasonable steps - perhaps by mechanisms to be defined by the new Gangmasters Licensing Authority - to ensure that their suppliers contract only with licensed gangmasters. (Paragraph 44)

The Government agrees with the Committee's view that the retailers have an important role to play in ensuring the success of the Gangmaster Licensing Scheme. They will be involved in developing and operating the licensing scheme through membership of the Gangmasters Licensing Authority Board. The improved transparency that the licensing scheme will provide will also ensure that the retailers can require their suppliers to use licensed gangmasters.

As there is only an indirect relationship between retailers and the gangmasters that the Act will regulate we do not consider that it would be appropriate to use the Act to regulate activities at the retail end of the food supply chain. However in advance of the implementation of the gangmaster licensing scheme the Government will be working with the retailers within the forum of the ETI Temporary Labour Working Group to encourage retailers to take greater responsibility for ensuring fresh produce is supplied using high labour standards. Several retailers have already indicated that they intend to use the Code of Best Practice for Labour Providers, developed by the Working Group, to educate their suppliers and the gangmasters who provide them with workers of their legal responsibilities. The Government endorses this approach and encourages other retailers to follow suit.

Recommendation 15

It is worth noting that the consequence of driving down prices for consumers of food may very well be a diminution in the wages and a deterioration in the working conditions of those who produce it. We therefore call for the provision by

supermarkets of information for consumers about the means of production of their food, a point to which we will return in our forthcoming inquiry into food information. (Paragraph 45)

The Government supports the Committee's view that consumers should have access to information about the means of production of their food.

Department of Environment, Food and Rural Affairs
29 July 2004

on behalf of:

Home Office
Department for Work and Pensions
HM Treasury
Cabinet Office, and
Department of Trade and Industry