

Please read this update carefully – it contains important information for GLA licence holders. If you have any queries please contact us on **0845 602 50 20** or **enquiries@gla.gsi.gov.uk**

This issue covers:

- New Licensing Standards
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## New Licensing Standards

Following a review over the last few months, we have now published our new Licensing Standards. These will take effect from 6 April 2009. This means GLA inspections from this date will be against the new Standards. The new Licensing Standards are similar to the current version. However, there are some important changes:

- The definition of being “Fit and Proper” has been strengthened.
- Complying with PAYE, National Insurance and VAT requirements is now classed as “Critical”.
- You must make sure you comply with any Additional Licensing Conditions (ALCs) attached to your licence by the specified deadline. New Licensing Standard 1.3 makes clear that ALCs must be corrected within the time period prescribed by the GLA. Standard 1.3 will also require “new business” licence holders to notify the GLA within 20 working days of trading in the regulated sectors. This new Standard is “Critical” – if you fail to comply with the ALCs attached to your licence you risk having your licence revoked.
- Charging job-finding fees or making work-finding services conditional on workers using other services is now classed as “Critical”. We are aware that some businesses attempt to encourage those seeking work to give money or presents (for example alcohol) for finding work – such a practice is illegal.
- The “Critical” standards are now clearer on whether a breach would lead to a licence being revoked with or without immediate effect.

Contact us if you would like a copy of the Standards or download them from the GLA website: [www.gla.gov.uk](http://www.gla.gov.uk)

## Changes to the Application and Renewal Process

From 6 April 2009, we will be changing our application and renewal process by asking new questions about the control of applicant businesses and licence holders. We will use this information to confirm that applicants and licence holders are fit to hold a licence.

Please note existing licence holders are not required to provide this information until the renewal process – at this point we will explain what new information is required.

## Mobile Workers Tax Relief Scheme

Companies who operate a mobile worker tax relief scheme must be able to prove they have appropriate dispensation from HM Revenue and Customs (HMRC) and operate the scheme in line with that dispensation. We will verify the dispensation with HMRC.

## Labour Providers and Agents Based Outside the UK

We are aware that businesses based outside the UK are offering services to UK labour users and labour providers. In particular, Bulgarian and Romanian based businesses are proposing to supply self-employed or posted workers and suggest savings could be achieved through the way in which UK companies will be invoiced.

We would like to remind labour users and labour providers that any overseas business **must hold a GLA licence** as well as comply with the relevant law in their own country. Any use of unlicensed overseas labour providers – including those listed as having “applied” on the GLA Public Register – is a criminal offence and critical breach of GLA Licensing Standards – this means you risk losing your licence and prosecution if you use an unlicensed business.

Supply has a wide meaning – anyone not directly employed by a licensed labour provider who recruits or introduces workers to a labour user or another labour provider will need to be licensed.

You should also satisfy yourself that the workers’ employment status is legal. We will check whether workers are employed or self-employed. The labour user or sub-contracting labour providers are the end user responsible for UK tax. You should clarify your tax liabilities with HMRC before entering into sub-contracting arrangements as the GLA will treat any non-payment of taxes as a breach of our licensing standards. Labour providers must also adhere to the UK Border Agency’s restrictions on employing Romanian and Bulgarian nationals.

## Posted Workers

We have had a number of queries recently about “posted workers” and Posting of Workers Directive.

A “posted worker” is a person who, for a limited period of time, carries out work in another EU Member State other than the State in which they normally work. They must be given the same key terms and conditions as all other workers in the UK, including the minimum wage. A worker can only be regarded as posted if an ongoing relationship exists between the worker and the employer in the country of origin, including wages being paid.

Any labour provider based outside the UK who is supplying workers to the GLA regulated sectors under the Posting of Workers Directive must be licensed by the GLA. They should also comply with any requirements which apply in the posting country.

An E101 Certificate must have been obtained for each worker before posting. This is to confirm that the equivalent of national insurance contributions is being paid in the exporting country. An application for an E101 certificate is not sufficient. Unless they are coming to work here for a very short time, all workers must register for tax in the UK, even if there is a double taxation agreement between the UK and the posting country.

If it is clear that the labour provider based outside the UK has not complied with any home regulations or has been refused the issue of E101 Certificates, we will consider them to be non-compliant with their domestic legislation. In such circumstances, the overseas based licence holder risks having its licence revoked.

## **Payroll Companies**

We are aware of a number of "payroll" companies who employ workers directly to offer tax savings. Please be aware that any such company must hold a GLA licence if they have contracts of employment with the workers. If you use such a company that is not licensed by the GLA, your licence will risk being revoked under Licensing Standard 8.1. It is also a criminal offence to use an unlicensed business.

## **Requests for Licence Fee Refunds**

Some businesses have asked for licence fee refunds after over-declaring their turnover. This has resulted in higher licence fees being charged. If you mistakenly over-declare your turnover, you will **not** receive a refund. Furthermore, if you deliberately under-declare your turnover you risk having your licence revoked or application refused.

Please remember your application fee and renewal fee are based on the turnover figure you submit. This should be the turnover figure for business in the sectors licensed by the GLA.

## **Authorising others to act on the principal authority's behalf**

As a reminder, we can only deal with a licence holder's Principal Authority in renewing licences or changing details unless another person has been authorised by the Principal Authority to act on their behalf. We do this to ensure control of the licence remains with the Principal Authority and to make certain information stays confidential. Please contact us if you would like to authorise someone to act on your Principal Authority's behalf.

## **Inspection Information Sheet**

If you have a prearranged inspection, you will now be sent the attached information sheet to outline what can be expected during the inspection process. Further information on GLA inspections and the power of GLA officers is available in our Compliance and Enforcement Codes of Practice – you can request a copy from our officers during your inspection.

## **Revocation List**

The list of revoked licences on the GLA website has now been updated so that it shows those who have successfully reapplied for a GLA licence.

Please be aware that checking this list on its own does not constitute the required check of the register to ensure you only contract with a licensed labour provider. You should still check our Public Register or sign up for an active check for the current status of a licence and updates on any changes to the licence.