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MAC REVIEW OF LABOUR MARKET RESTRICTIONS ON A2 NATIONALS

RESPONSE BY THE ASSOCIATION OF LABOUR PROVIDERS

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Introduction

On 24 May 2011, the Government commissioned the Migration Advisory Committee (MAC) to consider and provide advice on the following question:

“Is there a serious disturbance, or threat of such a disturbance, to the UK labour market and would maintaining the existing restrictions on Bulgarian and Romanian nationals’ access to the labour market assist in addressing any such disturbance or threat?”

The Association of Labour Providers (ALP) is the trade association for organisations that provide workers within the food, agricultural and other Gangmasters Licensing Authority regulated sectors. The ALP represents over 250 labour provider businesses.

Response

ALP members complain of facing unfair competition due to the use of false self-employment of Bulgarians and Romanian on food and agricultural contracts by their competitors.

Bulgarians and Romanian nationals are prone to such abuse because of their lack of free access to the employment market due to the immigration restrictions imposed upon them.

Such bogus self-employment is used to deny Bulgarians and Romanian workers NMW, holiday pay, and other rights.

Such workers are engaged in low skill roles and are clearly not in business in their own right. They are properly classed as workers or employees under employment status law, particularly in light of the recent Supreme Court finding in *Autoclenz v Belcher*.

Such workers do not use the Courts and Tribunals to address these issues due to their immigration status.

The consequences of false self-employment are that:

- Rogue operators obtain unfair competitive advantage over compliant businesses by avoiding their PAYE and NI obligations.
- There is loss of tax revenue to the Exchequer.
- Workers are denied the benefit of the Working Time Regulations, National Minimum Wage, Statutory Sick pay and the equal treatment rights under the Agency Workers Regulations.

Within the food and agricultural sectors there will be no disturbance to the UK labour market if the existing restrictions on Bulgarian and Romanian nationals' access to the labour market is removed.

The Association supports the removal of restrictions on Bulgarian and Romanian nationals' access as it will:

- Improve the supply of labour to food and agricultural sector jobs that are not currently of interest to UK nationals.
- Remove the ability of rogue operators to obtain unfair competitive advantage over compliant businesses by using Bulgarians and Romanians as bogus self-employed workers.
- Reduce the exploitation of vulnerable workers