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## **SUBMISSION BY THE ASSOCIATION OF LABOUR PROVIDERS TO THE HM TREASURY CONSULTATION ON RESTRICTING NON- RESIDENTS' ENTITLEMENT TO THE UK PERSONAL ALLOWANCE**

### **Contact**

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### **Introduction**

The food and grocery industry is the leading employer in the UK with more than 400,000 businesses in the UK food chain providing more than 3.6m jobs which is 13% of UK employment, or one in every seven jobs.

The Association of Labour Providers (ALP) is a trade association supporting and representing organisations that supply seasonal, agency and contingent labour into the UK food production, horticultural and agricultural sectors. The ALP has approximately 270 organisations that voluntarily choose to be members of the Association on payment of an annual subscription and commitment to abide by the ALP Constitution. ALP member organisations supply approximately 60-70% of the temporary workers into the food supply chain. All organisations that supply labour into these sectors are required to be licensed by the Gangmasters Licensing Authority (GLA). The ALP provides a range of services to help labour providers achieve labour standards compliance and good practice.

The ALP's members predominantly provide workers for unskilled work in the agriculture and food packing and processing industries. Labour providers operate in a very competitive market largely resulting from the downward pressure on costs exerted by the supermarkets. It follows that margins are thin, although just adequate to allow viable businesses to continue. Market pressures mean that unskilled work is either at, or very close to, national minimum wage (NMW).

Very few British workers are willing to work at or near NMW in such roles. For many years these irregular low-paid jobs have been largely filled by migrant workers, able to earn more than they can in their home country.

The July 2014 Home Office Migration Advisory Committee (MAC) report [Migrants in low-skilled work](#) highlights that:

- In 2013 some 12.9 million people aged 16-64 were working in low-skilled occupations, amounting to 45 per cent of total employment (16-64). Of these, 2 million were foreign-born, the majority from outside the EU. Practically half of all *packers, bottlers, canning and fillers* jobs are carried out by the foreign-born.

- Where MAC engaged with the private sector they found good evidence to support a very strong case of fair and proper treatment of migrant and UK workers with absolutely no indication of discrimination against UK workers.
- Employers state that migrant workers, from Central and Eastern Europe in particular, are more flexible and more geographically mobile, are perceived to have a better work ethic and work harder and are stronger in terms of “soft skills” including reliability, team-working and confidence than British workers. Many British workers applying for low-skilled jobs lack basic numeracy and literacy skills and many migrants have higher level qualifications.

The Seasonal Agricultural Workers Scheme (SAWS) was abolished by government at the end of 2013. Prior to abolition the Home Office issued visas for 21,250 Bulgarian and Romanians to work in the UK. In September 2014 the National Farmers Union said that there are now not enough bodies to provide the labour needed to meet demand for British horticulture and that the UK government must make it easier for migrant workers from non-European countries to gain temporary visas or put the country’s fruit and vegetable harvest at risk. The Home Office responded saying that there were no plans to bring in a new scheme to allow nationals from non-EU countries such as Ukraine, Russia and Turkey to work on UK farms during the peak harvest seasons and that industry should be able to meet demand from the UK and the rest of the EU.

For the first time since 2003 the ALP is beginning to see signs of a tightening of labour supply. The consequences of this are outlined in the following ALP press release:

“Labour costs predicted to rise – ALP Press Release – 22<sup>nd</sup> September 2014

With the number of people in employment at the highest level since records began, the food industry should prepare itself for an increase in contingent labour costs, according to the Association of Labour Providers (ALP).

With unemployment falling to 6.2 %, the lowest since 2008, and more people in work in the UK than ever before, labour providers are reporting the first signs of a tightening of labour supply in some areas of the country.

As the ALP releases its annual agency labour charge rate guidance, director David Camp says: “Labour providers fulfil a key supply chain security role in sourcing and supplying the high quality workforce that keeps the UK’s food and agriculture sectors working. For many years there has been a downward pressure on labour provider margins and this has now come to an end.

“With a tightening labour supply come increased costs in the form of additional recruitment expenditure and increased churn which add to the operating costs of labour providers. The law of supply and demand will prevail, and those labour providers that can source and supply a high quality, reliable workforce whilst complying with legal and ethical standards will charge an appropriate margin for their service.”

David adds: “Those hiring businesses that pay unrealistically low rates for labour are knowingly or recklessly conniving in illegality, as these rates can only be achieved either through worker exploitation or tax evasion, or both. As a result, the rate paid by growers and food producers for labour is a key variable

that the Gangmasters Licensing Authority monitors when looking for exploitation.”

ALP has now issued all its members with *The October 2014 Labour Provider Charge Rate Guidance*, which includes the new national minimum wage rates, new Scottish agricultural wage rates, pensions auto-enrolment charges and other updates.”

## **ALP Response**

1. The proposals impose a complicated administrative burden on low earners to reclaim tax at the end of the year which may:
  - Involve a complex double taxation relief claim in both the UK and the individual’s home country.
  - Require the engagement of costly professional accountancy services in n both the UK and the individual’s home country.
  - Create cash flow problems for individuals, which may be exacerbated where there are non-coterminous tax year ends.
  - Cause severe economic hardship for the lowest earning in our communities, particularly for those who fall just outside of the area of protection in the suggested tests.
2. The proposals are unlikely to generate the income HM Treasury expects as:
  - .They introduce more complexity into the tax system.
  - There are costs of updating HMRC’s administrative systems and processes.
  - There is no mention of the impact on state benefit payments in the consultation.
3. The proposals impose an unfair burden on employers. Section 6.9 of the consultation states, ‘Depending on the policy design, employers ... could need to review their employees’ residence position, global income and entitlement to a UK Personal Allowance for each tax year as appropriate.’
  - Employers do not have a right to know their employees’ level of income.
  - Employers could not reasonably verify the tax residence status declared by their employees.
4. The proposals impose an unrealistic and unreasonable burden on low skilled migrant workers to make an accurate declaration of their residence status on starting employment so that the personal allowance can be given to them:
  - Many migrant workers coming to the UK will not know what work opportunities they will find and as such status can usually only be determined after the end of the tax year.
  - The statutory residency test HMRC Guidance Note RDR3 is 105 pages long. Few unskilled migrant workers whose first language is not English would be able to make use of this for an accurate declaration.

- Residence status can change from year to year as well as within the tax year.
- It is difficult to see how an employer or employee will be able to determine with any degree of accuracy a provisional residence status in advance.

In conclusion:

- The ALP is concerned that the proposals will disadvantage those migrants who come to the UK to work in unskilled and temporary roles within the food and agricultural supply chains.
- The UK food and agricultural sectors are reliant on workers from the European Economic Area (EEA). As labour supply tightens, the UK will face increasing competition with other EEA nations such as Germany for sufficient supply of labour to ensure that UK business is not hampered by an inability to access workers. These proposals will disincentive EEA nationals to come to the UK to work in unskilled and temporary roles within the food and agricultural supply chains.
- The proposals potentially risk the economic success and growth of the UK food and agricultural sectors.