

2020



Employment Guide for Horse Breeding & Racing Sectors



FOREWORD

The future success of the Irish horseracing and breeding industry depends on a continued pipeline of dedicated and qualified staff for which our country is so famous worldwide.

These staff must be treated properly with respect and dignity and the attached document sets out and explains the responsibilities of employers and the rights of employees under the various legislation. It is a comprehensive resource of good employment practices for the industry.

It links to one of HRI's strategic priorities - 'driving excellence through people' and will help to highlight employment standards and career opportunities throughout the industry.

Credit is due to the various industry bodies, particularly the Irish Racehorse Trainers Association, the Irish Stablestaff Association and the Irish Thoroughbred Breeders Association as well as the Horse Racing Ireland HR team and the representatives of the Workplace Relations Commission for their work in producing this comprehensive and useful document.

Yours sincerely



Brian Kavanagh
Chief Executive



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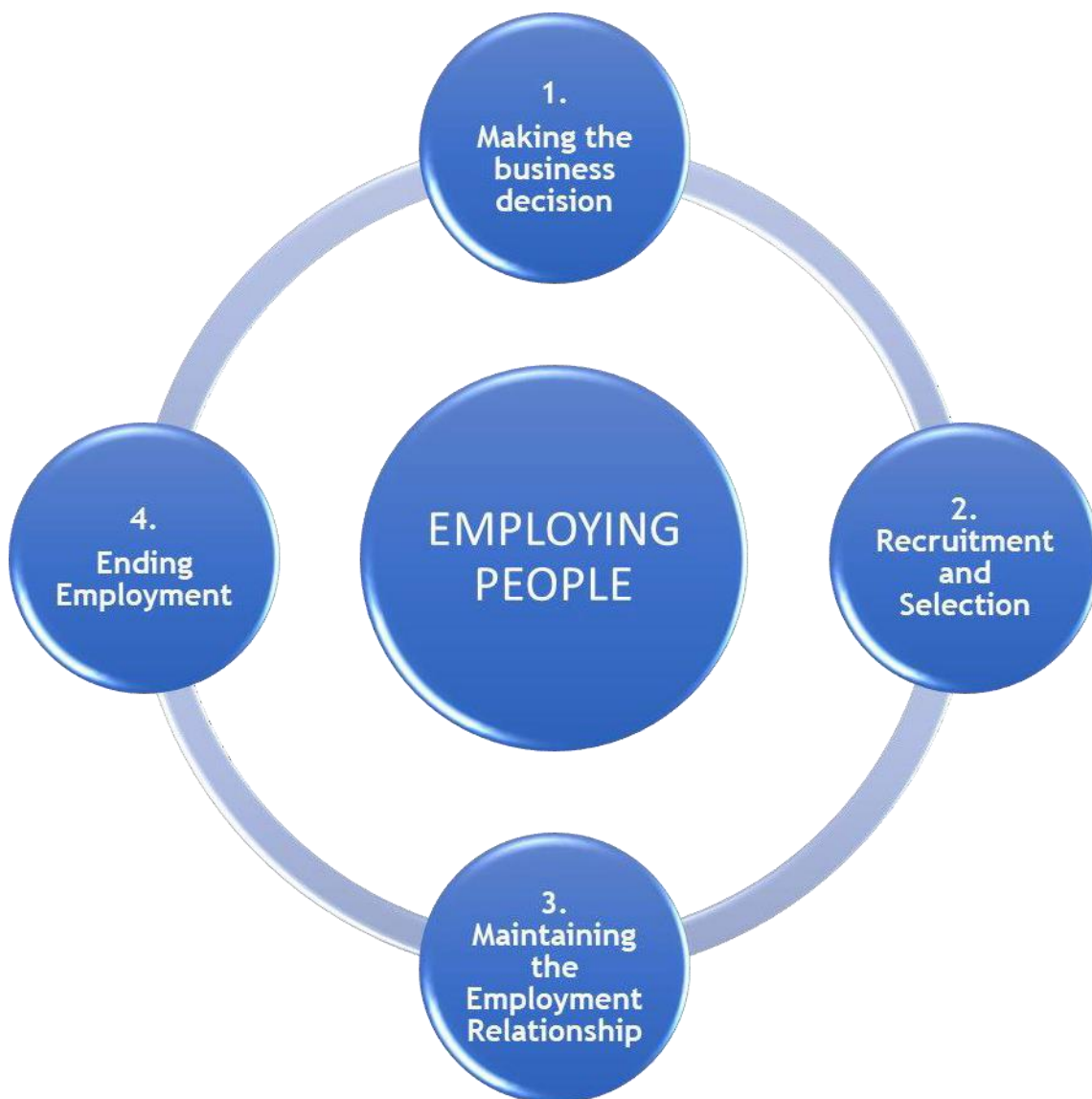
This Guide is for information purposes only.

This is not a legal document or a legal interpretation of the legislative provisions.

INTRODUCTION

Walk through Working Life

Employees are an invaluable asset for all enterprises but especially in the horse breeding and racing sectors where working with these special animals requires special people. The recruitment and careful retention of employees can often lead to a life-long and mutually beneficial relationship between employee and employer which we see frequently within the Racing and Breeding industry. The success of such relationship depends not only on trust, commitment, communication and fairness but also on compliance by employers with a range of obligations relating to employee's employment rights, health and safety and welfare. We call the employment lifecycle a “Walk through Working Life” and this guide will bring you through all employment aspects of that ‘walk through’.



WRC ‘Walk through Working Life’ has informed the format for this guide.

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Just as life in general follows a cycle, so too does working life, from initial contact in employee selection, through recruitment and contracting to work, the maintenance of the working relationship and, in due course, the ending of that relationship.

GETTING THINGS RIGHT AT RECRUITMENT STAGE WILL REAP BENEFITS LATER

It is particularly important that employers are familiar with their obligations throughout the working life cycle. Getting it right from the start in terms of recruitment, selection and commencement of working cannot only avoid difficulties at other stages of the cycle but also reflects the commitment of the employer to compliance - in itself a significant reputational benefit.

As a fully - fledged employer taking on additional employees, you may have an idea of what makes a good “boss” or great “employee” but are your expectations realistic and up to date in relation to the breadth of demands on you? By reviewing and referencing this guide you will have a clearer understanding of what your obligations are when you decide to hire staff, and how to manage and retain staff. You will need to be aware of employment legislation, revenue obligations, and health and safety legislation.

The Employer Essentials

The essentials which you will need to manage as an employer in your relations with your employees will be dealt with in detail in later sections of this Guide. The following is an introduction to those essentials.

Taking time to draw up a Job Description prior to any recruitment and having employment contracts with clear terms of employment will protect employers and employees alike and avoid disputes. Employers should also be conscious of the Employment Equality legislation framework in the recruitment process, and subsequently throughout employment. Under Employment Equality legislation there are “9 Grounds” specified against which discrimination is prohibited (including harassment).

Following the commencement of employment, there are a range of minimum standards to meet in relation to pay and compensation for Sunday working, hours of work, rest breaks, maximum working hours, annual leave and Sunday and Public Holiday work entitlements. The basic terms of employment must be issued in writing within the first week of commencement of employment and full terms within two months of commencement. Records to demonstrate compliance with all these requirements must be kept, and this helps to maintain a stable and an effective working relationship between employer and employee.

At the start of the employment relationship, both parties have made major decisions. If you can create a working environment where you actively listen to your employees, take their opinions on board, and show them that you appreciate their efforts, you will create an environment where your employee will be happy, and you will be recognised as a good employer with a good place of work. A positive working relationship between employer and employee is underpinned by trust. The employee trusts you as their employer to provide a safe place of work, to pay them what they are due for the work they have done, when they are due it, and that you will pay all relevant taxes on their behalf.

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If you are a first-time employer, you must register with the Revenue Commissioners and arrange for the deduction of tax and USC at source. The employee must apply for and provide you with a PPS (Personal Public Service) number. Employers must also be satisfied that potential employees who are nationals of non-European Economic Area (EEA) countries have permission to work in the State. There are also specific requirements in relation to the employment of children and young persons.

Following recruitment and commencement of employment, there are on-going requirements in terms of maintaining employment relationships. Different types of management skills may be required and good management practices to be established. These include employee communication and management, motivation, record keeping and health and safety. Personal people management skills are more difficult to practice than the technical skills acquired from experience e.g. the ability to motivate people, the ability to communicate, connect and have empathy. Ongoing communications between employer and employee, including regular performance conversations and consultation on issues will help to maintain good working relationships and productivity levels.

A range of employment procedures and practices should be put in place so that they become an integral part of the regular routine of the stable yard. A comprehensive "Check List" of procedures and practices is included at Section 6, but the main requirements are: -

REQUIREMENTS

- 1 Arrangements must be put in place to provide and record attendance and actual hours worked, to ensure that employees are paid the correct rates of pay for hours worked and receive statutory rest/ break entitlements. Employees should receive the required leave and weekly, daily and other rest breaks, and there are special requirements in relation to Public Holiday and Sunday working benefit entitlements. Employers and employees should sign-off on records of working hours to support all their pay, leave and rest entitlements.
2. All payroll payments to employees should be reflected in, and issued by means of, a payslip. 'Gross to net' and all deductions should be shown on payslips. If employers do not operate an occupational pension scheme or if certain restrictions apply to their scheme, they must ensure that their employees have access to at least one Standard PRSA (Personal Retirement Savings Account).
3. Clear arrangements for the granting of annual leave should be put in place and employers need to be aware of, and deploy, one of the three methods for calculating annual leave entitlements. Employers should also be able to process applications for maternity, adoptive, parental and carers' leave.
4. Health and safety induction and training, risk assessment, the provision of safety clothing and equipment and the putting in place of Standard Operational Procedures (SOPs) and Safety Statements are essential. The scale of the effort and documentation required for these areas will depend on the operations and the size of the undertaking.

*COMPLIANCE AND GOOD PRACTICES ARE GOOD
FOR BUSINESS AND EMPLOYEES*

5. Changing work practices, career advancement, business plan changes and other developments may lead to changes in the specific employments of some employees. Employers are obliged to notify employees of the nature and date of change of any change affecting existing terms of employment. It is good practice to engage as early as possible to communicate with employees on any such changes.
6. The employment relationship may end for one of several reasons, for example, retirement, resignation, redundancy, insolvency, transfer of undertaking, dismissal, etc. There are specific timelines, based on length of service, in relation to how notice of termination is to be given to employees.
7. At the point of termination of employment, employers are required to provide a statement of pay and deductions, pay the employee any outstanding amounts, issue a final pay slip and provide information in relation to pension scheme entitlements.
8. Where termination arises from redundancy, employers should pay the employee a redundancy lump-sum of a minimum of 2 weeks' pay per year of service, plus a bonus week, where continuous service is at least 2 years duration.

THE ENDING OF THE EMPLOYMENT RELATIONSHIP SHOULD BE ORDERLY

The Employee Essentials

The “Essentials” required to be provided by employers set the reasonable expectations of employees within the employment relationship-- in short the corresponding “*Employee Essentials*”.

As an employee, you are entitled to the protections and entitlements, provided for under employment, equality and health and safety legislation from your employer. Employees should expect an employer to implement best practice in the employment relationship.

What you can expect is
<ul style="list-style-type: none"> • a fair recruitment process, • being provided with a statement of ‘core terms’, and terms of employment, within statutory timelines and, where appropriate, a contract of employment, • being paid for all hours worked, • being given the relevant statutory rest and breaks from work, • being afforded standard legislative benefits and safeguards, • being informed of safe working practices relevant to you in your workplace, and working within safe conditions in a safe place of work, and, • being fairly treated, and receiving statutory and contractual entitlements, when your employment comes to an end.

Where an employee and employer do not agree on issues at work which can arise, both legislation and good communication practice requires that means of access for employees to formal grievance procedures regarding

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rights, or disputes, and for procedures for harassment complaints, must be made available. Statutory Codes of Practice on employment rights at work encourage employees to raise grievances and complaints in the first instance through local procedures with your employer.

The Workplace Relations Commission's (WRC) Information and Customer Services (Lo-call 1890 808090) are available to provide information on employment rights and workplace mutual obligations generally.

Where an employee believes that his/her employer has treated them unfairly, or has contravened legislation, employment and equality legislation also provides for the making of a formal complaint to the WRC. Complaints may be made using the 'eComplaint' facility available on www.workplacerelations.ie.

Depending on the legislation involved, your complaint will fall to be investigated by either: -

- i. An Adjudication Officer, who will hold a hearing, at which both parties are invited to attend to state their case, and in due course a decision will issue. There is a right of appeal by either party to the Labour Court from a decision of an Adjudication Officer, or,
- ii. A WRC Inspector, who will carry out an employment rights compliance inspection. Where contraventions are detected, engagement with the employer by WRC in terms of achieving compliance and redress (if appropriate) will take place.

Along with your legitimate expectations as an employee, you will be expected to contribute to the success of your employer's enterprise by meeting the terms of your employment contract with work performance consistent with your peers, and by acting safely at work to safeguard your own interests and those of your work colleagues.

Stable Staff - Additional Benefits of Employment

Racing Establishment Employee Cards

Racing Establishment Employee Cards for Stable Employees will be issued only upon the application of the Trainer concerned and every such application must be made on the appropriate form within 5 days of commencement of employment.

When an employee leaves the employment of any Trainer, the Card must be returned to the Office of the Irish Horseracing Regulatory Board (IHRB) within 5 days.

To obtain a Racing Establishment Employee Card, the trainer must apply for this card on the appropriate form within 5 days of commencement of employment. Applicants must be 14 years of age to obtain a 'B' card (part - time which is determined by the number of hours employed weekly (0-8 hours or 15 years of age to obtain an 'A' card (full - time (8-39 hours. Forms are available to download from the IHRB website.

Stable Employees Defined Contribution Pension Scheme

Stable Staff employees in the employment of a licensed trainer for any period of time in each of the three previous calendar years, and whose earnings equal or exceed the Qualifying Earnings in the previous calendar year, are eligible to join the Scheme. To be eligible for membership the employee must also be under age 60 and have completed their probationary period.

When an eligible employee joins the Scheme an individual Retirement Account is set up. Contributions are paid into a Retirement Account which is invested so that it grows over the years. Stable Staff employees are not required to make contributions, there is a deduction made from all racing prize money to fund the scheme.

There are various benefits provided as part of the Scheme to find out more, please check out The Scheme Explanatory Booklet together with 'Questions and Answers' are available from:-

www.hri.ie/uploadedFiles

Should a pension scheme member have any queries they should discuss them with Irish Life at 01 - 7041845 or by email at aim@irishlife.ie.

Death in Service Benefit

If a member of the Stable Employees' Pension Scheme dies in service of a licensed trainer before their normal retirement age of 65, they may also be covered for additional benefits on death in service under a separately constituted life assurance plan (Stable Employees Death Benefit Plan).

Also, Stable Employees whom are holders of a Racing Establishment Employee Card 'A' (8 - 39 hours, that die in service of a licensed trainer before their normal retirement age of 65, may also be covered for the additional benefit on death in service under the Stable Employees Death Benefit Plan.

Stable Employee Bonus Scheme

The Stable Employee Bonus Scheme came into effect on 1st May 2000 and is paid out quarterly to Trainers. The Scheme is financed by a 3% deduction from all prize money and that money is distributed to all registered employees who are in employment at the end of the relevant quarter. The amount paid to each employee is agreed by all employees and is based on a written Agreement signed by all employees and lodged with the IHRB.



SECTION 1

MAKING THE BUSINESS DECISION AND CONSIDERING HIRING

EMPLOYMENT GUIDE FOR THE HORSE BREEDING AND RACING SECTORS

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SECTION 1

MAKING THE BUSINESS DECISION AND CONSIDERING HIRING

You need to have clarity on why you are employing any person to assist you to operate your business before you start the employing process. You need to be sure that your business needs additional labour and that the business can afford to pay for this labour. Employing labour may require you to work differently and you may need to develop existing skills and acquire some new ones.

A stable yard will always have a basic requirement for a requisite number of staff to ensure that the yard is functional, safe and well-kept. The staffing requirement over and above the functional requirement will depend on, among other factors, the number of horses stabled. This can vary, and it will usually quickly become apparent when the number of horses exceeds the capacity of the current number of staff. This may lead to the need to hire staff.

Ordinarily you will need to consider recruiting full time staff where horses will be stabled on a year-to-year basis. However, the number of horses stabled is influenced by the season, the time of year and what the horses are being prepared for, for example sales preparation, or 2-year-old breeze-up sales. If horses are only to be stabled for a short time you may need temporary or part time staff.

Where to promote your enterprise

Where vacancies occur and the requirements of the position necessitate staff who are trained and who have the ability needed for work riding, leading and showing etc., trainers and breeders seek to source competent staff.

A familiar first stop for recruitment is often RACE- Racing Academy and Centre of Education.

There are other recruitment options: -

- “workinracing.ie” is a free service provided by HRI. You can advertise your open roles with “Work in Racing” on their website. The site reached over 20,000 unique users in its first year of operation. Any adverts posted on will be backed up by our Twitter and Facebook social media accounts which have a combined total of over 6,000 followers. You can post a job via the form on the website or by emailing workinracing@hri.ie directly.
- Ask your employees, could they refer a friend. They are your best sales people. They can paint a true picture of what you are like as an employer.
- In your own “informal network” of other trainers or breeders who for financial reasons may be letting employees go and yet have good performers to recommend. Stay close to your network it is a wealth of information.
- Local notice boards - either physical noticeboards in supermarkets, garages, churches, community centres, and online “notice boards”.
- Has your local area a community Facebook jobs page? You might be surprised to learn they do, and it will be free to advertise on same.
- The traditional methods -- industry specific and local newspapers.
- Local radio.
- Local jobs centre/Intreo.

If you get the recruitment stage right, you are on the right track to having a long and happy relationship with employees.

Be 'recruitment ready'

The wording of a job advertisement should be short and snappy. The essential information is the job title, the role described in 2-3 lines, the location, the duration of the assignment, how and where to apply.

To prepare to screen and then to interview and select candidates to fill a position, what is needed is: -

- **A job description** - the job title, the immediate supervisor/the person to whom the position reports, the overall purpose of the job, main duties and responsibilities,
- **A person specification** - the specific requirements for the position, any educational and vocational qualifications, personal skills and experience, and the need to be available to work overtime or shift work, and to travel.
- Proposed "Terms of Employment", as required by employment legislation and can be contained in a contract. Contracts are signed by both parties while terms and conditions of employment are signed by or on behalf of the employer. 'Core terms' of employment are required to be issued to the employee within 5 days of commencing employment. It is helpful to draw up these terms in advance at an early stage in the recruitment process. A useful sample 'Core' '5 Day Statement', and a Sample Terms of Employment, are available at Appendix 1 and 5.
- The basic formal terms of employment are required to be issued to the employee on the first week of commencing employment, it is helpful to draw up these terms in advance at an early stage in the recruitment process.

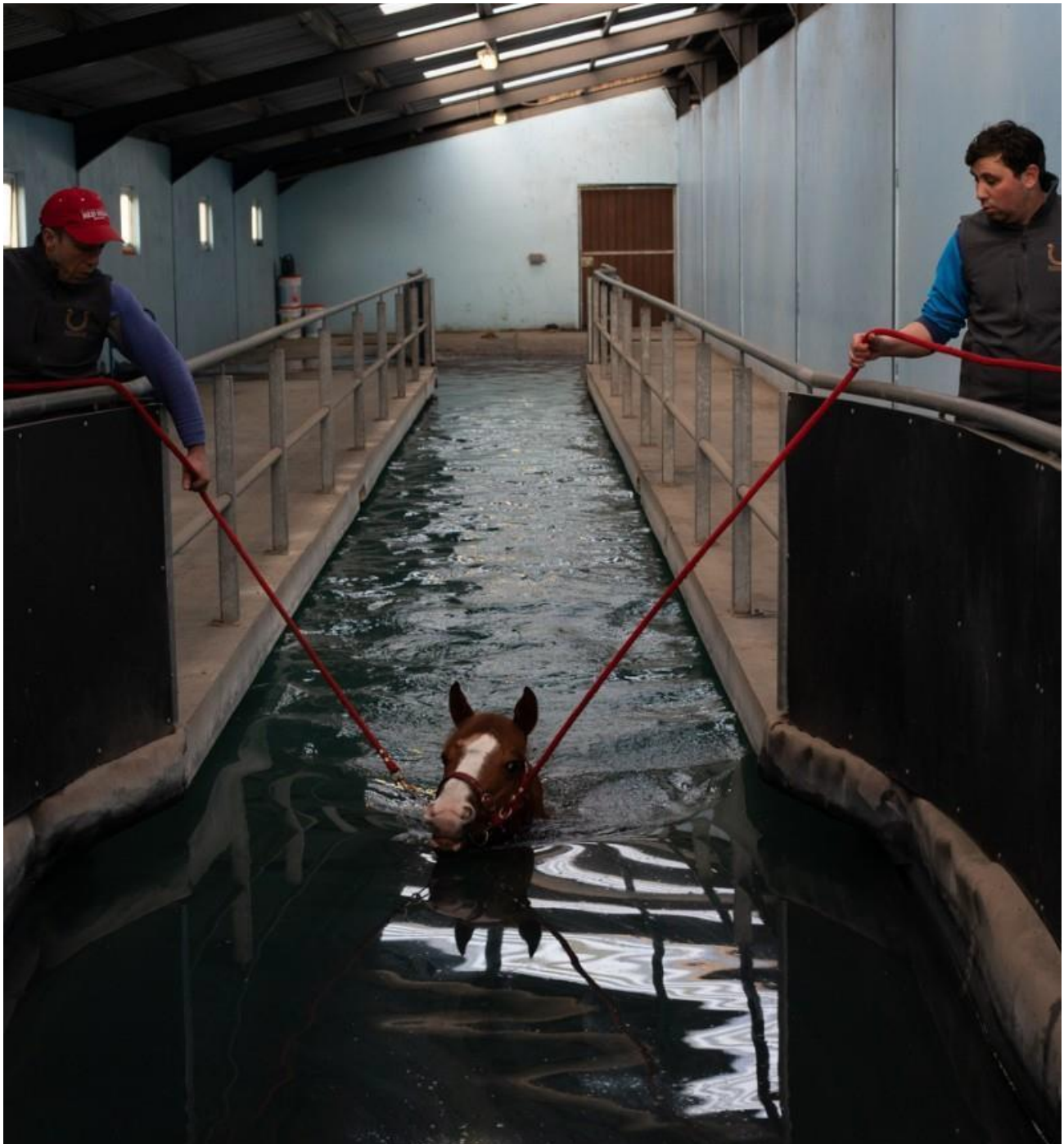
Examine the following template: -

JOB DESCRIPTION (example)	
Title of Job:	Work Rider / Groom
Location:	The Curragh
Reporting To:	Tom Jones
Basic Function:	Work as part of a team in a busy racing yard

Examples
Range of Duties and Responsibilities:
- Assisting with the care of 45 horses in our stable
- Ride work daily
- Mucking out, washing over horses, haying, feeding
- General yard duties, etc.
- Assisting with the vet, farrier, dentist, chiropractor etc.
- Liaising with the stable foreman or studmanager
- Strapping on raceday
- Travelling with horses
And to carry out any other duties, as may reasonably be assigned from time to time.

“A STABLE YARD WILL ALWAYS HAVE A BASIC REQUIREMENT FOR A REQUISITE NUMBER OF STAFF TO ENSURE THAT THE YARD IS FUNCTIONAL, SAFE AND WELL-KEPT. THE STAFFING REQUIREMENT OVER AND ABOVE THE FUNCTIONAL REQUIREMENT WILL DEPEND ON, AMONG OTHER FACTORS, THE NUMBER OF HORSES STABLED.”

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PERSON SPECIFICATION (Example)		
	Essential Be a confident rider Be available to work evenings	Desirable Be available to work weekends Weigh less than 11st
Knowledge/ Skills:	Have completed the RACE programme	
Attributes:	Examples <ul style="list-style-type: none"> • Honest, trustworthy, good communicator • Flexible, ability to work in a team • Reliable • Hard working • Punctual 	
Other:	(Perhaps vocational /legal requirements e.g. operating machinery)	

A Key “Term of Employment”

The future employee's hours of work will need to be managed in line with the parameters of the ‘Working Time’ legislation. This has become more important for reasons of work life balance and arising from the changing demographic of stable yard staff.

The key working time legislation provisions to be met are: -

- average net weekly working time of maximum 48hours
- rest breaks while at work, and daily and weekly rest breaks
- annual leave, public holiday and Sunday Work benefits, depending on hours worked

Working time parameters are set out in more detail in Section 3. Informed advice should be sought for the deployment of appropriate working time operational schedules in the stable yard, and for any changes intended to existing schedules. Compliance with the statutory working time requirements is determined on the basis of actual hours worked.

It is a candidate’s market

You have identified that you need to hire an employee to assist you in your yard or grounds. You are ahead of the game insofar as you have prepared a job description and a person specification.

The example job description above clearly outlines the primary purpose of recruiting this employee. You know the outputs you expect of this role. You also have a list of list deliverables that define what good performance would look like for you, if you had the ideal candidate working for you.

In a person specification you can indicate what type of traits you want the successful candidate to demonstrate - for example astute decision making, ability to work as part of a team, ability to lead. You know whether qualifications are needed to demonstrate desired competencies. Furthermore, you know the type of person you want to join, as fitting with the culture is just as important as competence within a small business.

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But be aware you cannot discriminate when recruiting, and before you place your job description into the public domain you should always sense check whether you may potentially be in breach of any of the “9 grounds” of Equality legislation.

Employees or Contractors; the Differences?

Employers may engage persons to provide necessary services by means of either of

- contracts of service or
- contracts for services.

Only a person engaged under a contract of service is deemed to be an employee and therefore protected by the full range of employment legislation- usually on the payroll.

An independent contractor or self-employed person will have a contract for services with the party for whom that work is being done - usually paid on foot of an invoice.

The distinction between a contract of service, on the one hand, and a contract for services, on the other, is sometimes unclear but the type of contract a person is engaged under can have serious implications for both employer and employee in matters such as employment protection legislation, legal responsibility for injuries, including injuries caused to members of the public, taxation and social welfare.

For further information, please see the *Code of Practice for Determining Employment or Self-Employment Status*, which can be downloaded from www.revenue.ie.

A person wearing a helmet and equestrian gear is walking away from the camera, carrying a bucket in their right hand and a bag over their shoulder. The background is a blurred outdoor setting with a building.

SECTION 2

RECRUITMENT AND SELECTION

EMPLOYMENT GUIDE FOR THE HORSE BREEDING AND RACING SECTORS

2

SECTION 2

RECRUITMENT AND SELECTION

How do I short-list candidates for recruitment selection and interview in a fair manner?

Where you have several applicants for a role you may need to carry out a screening process.

Screening involves a review of an application and / or CVs against the job description in order to determine which candidates have provided you with documented examples of where they performed similar tasks in other employments. You then “screen -out” those who you feel aren’t a close match.

When choosing candidates for interview it is important to ensure that the criteria do not discriminate on any of the “9 grounds” set out in the Employment Equality Acts. It is important that each application and / or CV is dealt with on its merits. Those candidates that do match your needs should be called for interview. For one role that is open, no more than 2-3 candidates should provide you with a good choice.

Taking the opportunity to secure talented individuals

A formal job vacancy notice and /or description followed by an interview selection process is not always needed.

Where an employer engages an individual recruit on the basis of a recommendation from an existing employee, or from the employers own ‘informal network’, the key issue is to agree the employment terms in a contract straightaway. That will enable a talented recruit to be taken into employment quickly, and to safeguard the future interests of both parties.

The ‘practicals’ of short-listing and Interviewing

The objective of the interview is to collect information so that an ultimate decision can be made on whom to recruit. An equally important objective is to impart information to the interviewee about the job and the organization. It is advisable, in order to ensure objectivity and fairness, that neither screening, nor interviews, should be conducted by a single person.

The information provided on the application and / or CV form enables the employer to decide whether to call the candidate for interview and provides the basic framework for conducting the interview.

A criteria chosen for screening can be assigned a weighting corresponding to the importance to the relevant position (e.g., no experience = 0; ideal experience for role = 10), Thus documentary evidence can be demonstrated as to how applications and / or CV s were screened in an objective and non-discriminatory manner.

In advance of an interview, interviewers should: -

- Review the job description and person specification for the role and decide on selection criteria,
- Create an interview ‘questions’ checklist to ensure that all relevant areas are covered and
- Produce ‘pro-forma’ interview assessment and scoring forms so that assessment and scoring against the criteria can be carried out later.

Interview Stages

There are generally three main stages in an interview utilizing the prepared question list and assessment form.

1. The opening; When opening the interview, candidates should be introduced and told who the interviewer (s) are and the proposed structure and duration of the interview. They should be told that the employer is an equal opportunities employer and that note-taking will occur. To begin, it is usual to ask questions about the candidate's application and/or CV form.
2. The core of the interview; The central part of the interview involves gathering information from the candidate. The same core questions need to be asked of each candidate even when initial responses are weak or unsatisfactory.
3. Closing the interview; To bring closure, the candidate should be invited to say if they have anything further to add, or to ask questions. Further insight into the job, with emphasis on the demands of the job, for example, a requirement to work extra hours or to travel should be given. The candidate should be advised what will happen next and the time frame involved.

Completing Selection

To complete the selection and to avoid any exposure to discrimination, interviewers should complete their notetaking directly. The phrases and answers made by the candidate should be captured, and not include assumptive or judgmental or derogatory comments. Records of the reasons a candidate was selected (and others not selected) are important documents and should be kept centrally in a safe place.

At the end of the interview compare the attributes of the candidate as demonstrated in the interview and application, and / or CV, against the selection criteria. Marks should be awarded to each candidate separately and fairly on each of the selection criteria, i.e. marks should be awarded first, and their outcome discussed afterwards. The final decision should be documented to show objectivity.

It is common, if requested, for candidates to be offered specific feedback after interviews to provide them with the opportunity to develop their skills further for future vacancies should they arise.

Recruitment and Selection Records and Data Protection

An employer can be required to demonstrate that discrimination did not occur. Key documentation includes the job description and person specification, the job application and / or CV form and screening criteria, interview notes, interview assessment forms and candidate scores.

Note that the Data Protection Acts 1988 to 2018, (now incorporating the "GDPR"¹ Regulations), confer the right of access to any person, including job applicants, about whom recorded personal information is kept. This means that any original candidate may request a copy of any screening, selection and interview records that relate to him or her. It would be advisable to securely retain the records for a year (to enable employer responses to potential requests for feedback, or for claims), before purging records confidentially.

¹ General Data Protection Regulations (GDPR)

THE INTERVIEW “TOOLKIT”

When asking questions: -

- keep to a logical sequence of the agreed questions,
- link each next question to the candidate's previous reply,
- avoid multiple questions, and,
- apply the 80/20 rule - candidates should do 80% of the talking.

“DOs” Questions should...

- Open questions explore opinions/ attitudes and encourage candidates to talk about their experiences to date. The nature of the question means that the interviewee must be given time to consider and respond.
- Probing questions are used to broaden the interview, to probe for further information. Probing questions require candidates to explain why they give certain responses and answers.
- Closed questions are only to verify specific facts and information provided.
- Summarizing questions are used to test that you have fully understood what the candidate was saying.

“DONTs” Questions should not...

- Avoid Leading Questions, as the problem with leading questions is that the response is indicated in the question itself, and it is difficult for candidates to disagree.
- Avoid references to personal or family matters, or references to the nature of any declared disability, or references to religious affiliation and any possible impact on work arising.

How do you conduct a reference check?

Reference checks are not compulsory. If you decide to check, seek referee names and permission directly from the candidate to contact previous employers, particularly any current employer. Remember the ‘9 grounds’ of discrimination and stay clear of these areas when questioning a referee!

The purpose of checking references is to get firsthand information from a previous employer on how this employee performed for them in a similar type role and is usually a good indicator of what you can expect. As a safeguard you should always formally ask for references in total confidence; if so, that confidence must be preserved.

Do ask factually why the candidate left that employment, and if an opportunity presented itself would the employer rehire - this is usually a good indicator of how good an employee your candidate really was.

Note: Rules of Racing: under Rule 149 (iii) Stable Employees - A Trainer should not engage any Stable Employee who has previously been employed in a training stable without referring to his/her last racing employer and receiving a reference.

Direct Recruits -- or from an Employment Agency

An employer has the option of filling a vacant position with either a ‘direct hire’, or temporarily with a worker supplied by an Agency. The direct hire can be initially employed on a permanent basis (full- or part-time), or on a fixed-term contract.

Where an Agency worker is employed, the “Agency” workers legislation of 2012 essentially provides that such a worker must be engaged on the same “*basic working and employment conditions*” as peer employees.

Making the Offer of Employment and the Contract

A written offer of employment on headed paper identifying the employers name should be provided attaching a written statement of the terms and conditions of employment (the '**employment contract**'). The offer should include a date by which the candidate has to indicate his or her acceptance of the offer. New employees must also receive a written statement of disciplinary and dismissal procedures, as they apply, within 28 days of commencement of employment. The employment contract will be the basis of the first assignment of the new employee to duties in the yard, and will bring clarity to, and be the foundation of the future employment relationship.

Serving a Probation Period

A 'Probation' term in contracts is essential. The length of the probation period is normally between three and six months in order to give time to establish suitability. The contract should allow to extend the probation period when the employer deems it to be necessary. However, probationary periods should not extend beyond 12 months.

During the probation period, the employee's work performance (and their attendance and "lates" etc.) should be reviewed and recorded. This means committing the fact and the outcome of each review to a paper record and supplying a signed copy to the employee. Probation meetings should be held to examine the employee's progress in completing the work tasks assigned, and to provide feedback. Where there is a shortcoming in relation to performance, this must be identified, and the new employee told what to improve, and the mechanisms for improvement should be agreed (usually guidance from a more senior employee). The possibility that failure to improve may lead to a Probation termination of employment should always be made clear.

Recruitment and Employment Equality Legislation

The risks of discrimination can arise before any employment commences. The Employment Equality Acts outlaw discrimination in a wide range of employment areas, including selection for recruitment and for promotion. Discrimination by employers may arise about access to employment, conditions of employment, promotion and classification of positions. The legislation defines discrimination as treating one person in a less favourable way than another person. The "9 grounds" on which discrimination is outlawed are as follows: -

Gender, sexual orientation, religion, age, race (including colour, nationality, ethnic or national origins), membership of the travelling community, civil status, family status and disability.

During recruitment candidates should not be disadvantaged by being asked to respond to, or to be assessed on any of the "9 grounds" unless the characteristics of the position constitute genuine and determining occupational requirements to ask about. The potential risks of not having regard to Equality legislation in recruitment are very significant, and in order to avoid complaints it is key to have a good understanding what "having regard" means in practice.

IMPORTANT DEFINITIONS

- Direct discrimination may occur where a person is treated less favourably on one of the “9 grounds” in a situation that exists, existed or may exist in the future or is imputed (i.e. one of the “9 grounds” is presumed to apply) to a person.
- Indirect discrimination may occur where an apparently neutral provision puts a person who is within scope of one of the “9 grounds” at a disadvantage because of being a member of that group, unless that provision is an objectively justified aim and the means of achieving the aim are appropriate and necessary.
- Harassment is any form of unwanted conduct related to any of the discriminatory “9 grounds”, and sexual harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, in either case being conduct which has the purpose or effect of violating a person's dignity at Work.
- Disability: establishing whether a person has a disability (in order to avoid discrimination) requires consideration of a formal medical report (from an appropriate professional source) and not any individual opinion. That report must be shared and discussed directly with the person before the effects on employment can be considered.
- Prima Facie claim: where in a complaint of discrimination the complainant establishes facts from which it may reasonably be presumed that there may have been discrimination, then the employer is obliged to prove the contrary.

Dealing with Disability

When a person presents as a candidate for recruitment, discrimination risks can concern persons with a disability. The risks can arise at recruitment or later during employment.

Nothing in the Acts can be construed as requiring an employer to recruit, promote, retain or train a person who is unwilling, or not fully competent and available to undertake the duties attached to a position.

The employer must take appropriate ‘*reasonable accommodation*’ measures to enable a person with a disability to be competent, unless the measures would impose a disproportionate burden on the employer. Such measures can include the adaptation of premises and equipment, patterns of working tasks and times, or the provision of training. It does not include any thing that the person might themselves provide. In determining whether the measures would impose a disproportionate burden, account is to be taken of the financial and other costs entailed (in relation to the financial resources of the employer).

What the Law tells us when Recruiting...

Contracts - Terms of Employment

Anyone who works for an employer for a regular wage or salary has automatically a contract of employment whether written or not. Contracts may be expressed (oral or in writing) or implied. Legislation refers to employment contracts as “Terms of Employment”.

Employers must,

- a) within 5 days of commencement of employment, provide employees with a written statement of the following particulars of their employees’ terms of employment: -

• full names of employer and employee,
• address of the employer or principal place of business,
• in the case of a temporary contract, the expected duration or, in the case of a fixed term, the date on which the contract expires,
• the rate or method of calculation of wages and the pay reference period for the purposes of the National Minimum Wage Act, 2000, and
• the number of hours which the employee is expected to work per normal working day and normal working week.

- b) Within two months of commencement of employment, provide employees with a written statement of certain remaining particulars of their employees’ terms of employment, including: -

• job title or nature of the work
• the place of work
• date of commencement of the contract
• a reference to any registered employment agreement, collective agreement or employment regulation order which may apply and where the employee may obtain a copy of same
• a reference to the employee's entitlement to request a written statement of the employee's average hourly rate of pay for any reference period
• the pay frequency
• terms relating to paid leave, incapacity for work due to sickness, paid sick leave and pensions and pension schemes, and
• the notice period
• terms or conditions relating to hours of work or overtime

A useful sample ‘Core’ ‘5 Day Statement’, and a Sample Terms of Employment, are available at Appendix 1 and 5.

Note that, leaving aside what may have been stated on hours of work in any existing contract, an employee is now entitled to request that this contract term be revised, where justified, to reflect the actual number of hours worked on average over a prior 12 month reference period . If requested, and if justified from employment records, the contract hours of work should be changed, and the employee placed in a “band of hours” in line with legislation.

Employers must also give employees a notice in writing setting out dismissal procedures and a copy of grievance and disciplinary procedures. Such procedures must be compliant with the WRC Code of Practice on Grievance and Disciplinary Procedures (S.I.146 of 2000) which is reproduced at Appendix 2.

Non-EEA nationals who intend staying in the State for longer than 3 months are required to hold a Certificate of Registration, also known as a GNIB Card or Irish Residency Permit (credit card size). This Certificate shows the holder's name, address, nationality, date of birth, photograph, issue date and expiry date. The holders of such certificates are subject to certain conditions relating to participation in businesses and the take up of employment. These conditions are determined by the type of "Stamp" indicated on the Certificate.



For example, certain non-EEA students holding a Stamp 2 may take up limited casual work, while those who have been granted a Stamp 4 do not need permission to work in Ireland. An employment permit is not required in those cases.

While possession of a PPS (Personal Public Service) number is a Revenue Commissioners pre-requisite for payments under PAYE, it should be noted that the possession of a PPS number does not automatically entitle a person to work in the State.

It is a criminal offence under the Employment Permits Acts 2003 and 2006, for both the employer and employee, if a non-EEA national is in employment without an appropriate employment permit or other permission to work.

Before engaging an employee, you should, therefore,

- Identify the person's nationality, and
- If the person is a non-EEA national, determine that he/she
 - holds a valid employment permit, or
 - holds a valid permission to work by virtue of a certificate of registration and associated "Stamp", or
 - is otherwise permitted to work in the State.

Full details of immigration permissions, and "Stamps", are available from the Irish National Immigration Service (INIS) at www.INIS.gov.ie. Note that some citizens of non-EEA countries do not require Employment Permits -- as outlined at the Section 2 Annex.

3 Garda National Immigration Bureau (GNIB)

“AN AGENCY WORKER IS AN INDIVIDUAL EMPLOYED BY AN EMPLOYMENT AGENCY UNDER A CONTRACT OF EMPLOYMENT BY VIRTUE OF WHICH THE INDIVIDUAL MAY BE ASSIGNED TO WORK FOR, AND UNDER THE DIRECTION AND SUPERVISION OF, A PERSON-THE HIRER (E.G. A HORSE TRAINER OR BREEDER)- OTHER THAN THE EMPLOYMENT AGENCY ITSELF.”



Employing Agency Workers

An agency worker is an individual employed by an employment agency under a contract of employment by virtue of which the individual may be assigned to work for, and under the direction and supervision of, a person-the Hirer (e.g. a Horse Trainer or Breeder)- other than the employment agency itself.

Temporary agency workers must have equal treatment with workers who are work comparators and are employed directly by the Hirer in respect of pay, working time, rest periods, annual leave and public holidays. Temporary agency workers must also have equal access, with the Hirer's own workers, to facilities such as childcare, canteen or similar amenities, or transport services.

Where a vacant position of employment arises within the employment of the Hirer of an agency worker, the Hirer must, when informing his/her own employees, inform any agency worker who is for the time being assigned to work for the Hirer, of the vacancy for the purpose of allowing the agency worker to apply for that position.

Employing Young Persons

Recruiting and employing a 'young person' (i.e. a person aged 18 or younger) presents very specific obligations under the Protection of Young Persons (Employment) Act 1996. There are also the further preparations needed in relation to accreditation of, and Garda vetting for, supervisors.

In advance of employing a young person under 18 years of age the employer is required to see evidence of age from their birth certificate and obtain the written permission of a parent or guardian. Employers must give their employees who are 18 years of age or younger a copy of the official summary of the Protection of Young Persons (Employment) Act 1996 (available from the Workplace Relations Commission) within one month of taking up a job. Typically, an apprentice jockey would be in the 16-18 age group, and the provisions of the Act therefore apply.

In general, the employment of children under the age of 16 is prohibited. However, 14- and 15-year olds can be employed:

- during the school holidays
- part-time during the school term
- as part of an approved work experience or education programme where the work is not harmful to their safety, health, or development

Employers need to be aware of the limits to the working hours of, and rest breaks which apply to, young persons and children. Employers must display a summary of the Act (available in poster form).

Fixed-Term and Part-time Employees

Depending on the business needs, employers may require taking on full or part-time employees, on permanent or fixed-term contracts (or temporary agency workers).

A fixed term employee is employed under a contract which contains a specific start and end date or who is employed to carry out a specific task or project or the continuity of whose contract is contingent on an event such as the availability of continued funding from an external source.

Fixed-term employees cannot be treated in a less favourable manner than comparable permanent employees in

relation to conditions of employment. Other employee protection legislation applies to fixed-term employees in the same manner as it applies to a permanent employee. The contract should provide that the natural expiry of the agreed 'fixed term' should not be liable for Unfair Dismissal legislation.

Employees cannot remain on a series of fixed-term contracts indefinitely. If an employee has had two or more fixed term contracts, the combined duration of the contracts may not exceed four years. After this, if the Employer wishes the employee to continue, it must be based on a contract of indefinite duration.

A part-time employee is someone who works fewer hours than a comparable full-time employee doing the same type of work.

A part-time employee may not be treated less favourably than a comparable full-time employee in respect of any condition of employment. Most employee protection legislation applies to part-time employees in the same manner as it already applies to full-time employees.

Fixed term and part-time employees may only be treated in a less favourable manner than comparable full-time employees where such treatment can be justified on objective grounds.

Equality

The Employment Equality Acts outlaw discrimination during recruitment and when in employment, in work-related areas such as pay, vocational training, access to employment, work experience and promotion, including harassment and victimisation at work and the publication of discriminatory advertisements.

Harassment and Sexual Harassment

As stable yards are nowadays characterised by diverse workforces, risks of discrimination or harassment may arise at work. Alleged Harassment, or Sexual Harassment, whether by an employer, another employee, or by clients, or customers of an employer, and whether inside or outside of workplace, is forbidden under the Acts.

Where an employee has alleged harassment, whether inside or outside the workplace, they should not be treated differently as to do so may constitute discrimination.

It is also unlawful to discriminate directly or indirectly in relation to occupational pensions on any of the "9 grounds".

In Equal Status legislation similar provisions regarding prohibition of discrimination on the "9 grounds" apply. However as Equal Status legislation deals with discrimination outside the employment context, including provision of goods, services and accommodation, and the disposal of property, and as these are defined broadly as being that provided to the public, it has no immediate effect on stable and stud staff employment issues.

SECTION 2; ANNEX

Citizens of non-EEA countries who do not require Employment Permits

- Permission to remain as spouse or a dependent of an Irish/EEA national
- Permission to remain as the parent of an Irish citizen;
- Temporary leave to remain in the State on humanitarian grounds, having been in the Asylum process
- Explicit permission from the Department of Justice and Equality to remain resident and employed in the State
- Permission to be in the State as a registered student who is permitted to work 20 hours during term time and 40 hours during holiday periods.
- Permission to be in the State under the terms of the Diplomatic Relations and Immunities Act 1967 and are assigned to a Mission of a country with whom the Government has entered into a Working Dependents Agreement.
- Swiss Nationals: In accordance with the terms of the European Communities and Swiss Confederation Act, 2001, which came into operation on 1 June 2002, this enables the free movement of workers between Switzerland and Ireland, without the need for Employment Permits.

Recognition and Repayment of Expenses when Travelling while at Work

Business travel is when an employee travels from one place of work to another place of work as part of their duties. Subsistence costs may be incurred and repaid to the person temporarily away from their normal place of work.

This is set out for employers and employees on the Revenue Commissioners website at www.revenue.ie.

For absences within Ireland payments can be made, tax free, by using the current schedule of Civil Service subsistence rates (or lesser rates). The current (and historic) rates and the compliance 'rules' which apply, together with related examples are available in 'Part 05-01-06' of the Revenue Commissioners Tax and Duty Manuals. A signed record must be kept of all claims and payments.

The current subsistence rates for assignments within Ireland are: -

Domestic Day subsistence rates (from 1 July 2019)

Period of assignment	Rate
Ten hours or more	€36.97
Between five and ten hours	€15.41
The assignment must be outside eight kilometres of the employee's home or normal place of work	

Please note that if food and refreshments is supplied at the races or as part of the travel then a subsistence rate would not apply.

Domestic Overnight subsistence rates (from 1 October 2018)

Period of assignment	Rate
Normal rate	€147.00
Reduced rate	€132.30
Detention rate	€73.50
Overnight allowance covers an overnight assignment of up to 24 hours. This must be at least 100km from the employee's home and their normal place of work	



SECTION 3

MANAGING PEOPLE AND THE EMPLOYMENT RELATIONSHIP

EMPLOYMENT GUIDE FOR THE HORSE BREEDING AND RACING SECTORS

3

SECTION 3

MANAGING PEOPLE AND THE EMPLOYMENT RELATIONSHIP

The practice of managing employees demands many skills from the manager or owner in order that the enterprise can be successful and be sustained. Managers need to demonstrate leadership in order to develop the trust that is necessary for employees to perform their tasks as instructed, often without immediate supervision. The trust in relationships can be built on four core principles which managers and owners should adopt and apply.

Clear Direction; managers should clearly advise employees what objectives the enterprise is trying to achieve in order to have a clear picture as to how employees can contribute through performing those tasks (from their job specification) which are entrusted to them.

Communication: managers plan and carry out regular formal and informal communications with individuals, groups and teams. Employees will learn the enterprise's short- and medium-term objectives, so that managers can listen and respond to suggestions, ideas and feedback. Means of access for employees to formal internal local grievance procedures, and procedures for harassment complaints, must be made public and should be updated and renewed periodically. Employees should be encouraged to raise grievances and complaints in the first instance through local procedures before any external referral. Where an employee believes that his/her employer has treated an employee unfairly, or has contravened legislation, a formal complaint can be submitted to the WRC. Complaints may be made using the 'eComplaint' facility available on www.workplacerelations.ie or by direct correspondence with WRC.

Recognition: managers recognise, both privately and publicly, excellent individual and team contribution when it is due, and are diligent in applying all central rewards due.

Performance and Feedback: every employee should have an individual discussion with the manager or owner at least once per year. This is to enable the owner or manager to give honest opinion on any individual goals set previously, to recognise contribution during the year, and to 'flag' under-performance if that is objectively the case, and to facilitate employee feedback. The employee should be given the opportunity to identify and set out their work and career expectations. In order to assess and address career and personal development expectations, managers and owners should inform employees and provide open access for them to interact with the HRI 'Workinracing.ie' service.

Organisation of Work

The foundation of an individual employees' work assignments is the job description appropriate to their role. For a range of reasons-

- Fair allocation of tasks
- Tasks to be within the competence of the individual
- Scheduling of work attendance hours
- Compliance with safe operations

the detail of an individual employee's core working day or week will flow from the job specification.

Work and activity which will apply to an experienced staff member will be different to a recruit, and certain employees will have specific roles, e.g. operation and maintenance of equipment and machinery. The safe operational deployment of each staff member on assigned tasks will be within the context of their competence and experience.

‘Day One’ Induction for the New Employee

Considering the complexities of work in a stable yard, before being assigned their work tasks a recruit must have a full and proper induction. Even in small training yards or small stud farms it is important to ensure that a new employee is familiar with all aspects of the site and operation. While an overview of the formal issues connected with the employment contract can be covered in discussion in an indoor office environment (including familiarisation with the yard Safety Statement), the induction must entail a physical “walk-through” the practicalities and safe practices of the stableyard.

The ‘walk - through’ part of the induction can be done by a senior employee who is well-versed in the safe working practices of the yard and who can instruct the recruit. The recruits’ access to, and use, of any formal operating instructions must be identified, e.g. for safely operating machinery where this is an operational requirement.

If the recruit is already experienced from working in this, or in another similar yard previously, the same process must be followed to ensure familiarisation with the current yard specific practices, equipment etc. This can also be done by a senior employee.

Employing “Young Persons” - a Special Category

For a range of reasons, which are well understood, the recruitment of a Young Person is a special category of new employee. Importantly, there are very specific legal responsibilities (under the “Protection of Young Persons (Employment) Act 1996”) which arise at the various stages of the Young Person’s career.

Depending on age, the Young Person will have limitations to hours of work, with specific work breaks and specific rates of pay, all of which must be managed and recorded by the employer (refer to Page 37).

Stable yard operational schedules and consequently hours of work for each individual employee will need to be managed in line with the specific needs of the stable yard, which can vary during the year, but also to be within the parameters of the ‘Working Time’ legislation. This is important for reasons of work life balance and arising from the changing demographic of stable yard staff.

Applying the Employment Contract

The key contractual issues that must be made clear on commencement of employment are to highlight the terms of the contract including, but not limited to,

- Hours of work and payment
- Reporting line - whom the recruit will report to directly as supervisor
- Identification of any safety hazards specific to the yard
- How to report accidents at work where they arise, and
- Access to grievance and disciplinary procedures.

A key part of those procedures is the owner or breeder’s need to convey to the recruit the importance of respecting the yard ‘dignity at work’ or anti- harassment policy. Also, that all employees have the right to make, and have clear and open access to make complaints in the first instance through local procedures, rather than a ‘third party’ referral, if they consider they are harassed, and / or their dignity is offended

Communication during Employment

Probation Period Communication and Reviews

The recruit must be advised that in their probation (usually six months) a formal review process with the owner / manager or supervisor will take place (the outcome of which should be recorded). Supervisors and managers must accurately and consistently review work performance during the probation period. Employers may consider letting go an employee found unsuitable during the probation period, but only provided this has been 'flagged' and recorded in previous review meetings. Having a 'positive' review means having a good attendance and time keeping record, as well as a constructive contribution to the yard operations.

Communication through Personal Review Discussions

All employees should have the opportunity for a personal formal review discussion, at a minimum once per year, with the manager or owner.

The expectations by owners and managers for retention of their key staff are best met by direct dialogue (preferably more frequently than once per year) in a 'suitable setting'. This means the discussion is on a one to one basis, away from others, and if held in an office should not be able to be overheard.

Career Development Discussion

Whether raised by the employee or manager or owner, the employee's career hopes and concerns must be a formal 'agenda item' in each annual discussion. This could entail simply an aspiration to be given a changed assignment, or to upgrade to a stable yard role of recognised higher responsibility. The discussion also provides the opportunity for the employee to give honest feedback and the owner or manager can expect that some feedback may be of a "criticising" nature, which must be allowed for and accepted.

'Work in Racing' - Support for Career Expectations

Arising from career discussions where the acquisition of new or different skills is being considered the owner or manager should be aware that the HRI 'Work in Racing' service has access to funding (for external training) and to other industry expertise. The 'Work in Racing' service may be able to assist with an employee's career expectations, including those outside the current employee role.

THE ROLE OF 'Work in Racing'

Mission: 'Work in Racing' works with the leading educational providers in the agricultural and equine fields to develop and provide entry level skill development programmes for new entrants to the industry.

In addition to new entrants, 'Work in Racing' is committed to providing opportunities for current employees and employers in the industry to further develop their skills and knowledge through the provision of training and access to back to education supports.

Support for Career Expectations: Where the acquisition of new or different skills is being considered, the owner or manager should be aware that HRI has an education and training function - 'Work in Racing'.

The Horse and Greyhound Act 2001 included in the general functions of HRI 'the provision of any financial and other support it deems appropriate to assist educational and other institutions and organisations in providing improved training and education facilities and courses for the thoroughbred horse industry to satisfy the training and educational needs of that industry at all levels'.

In order to deliver on these functions HRI established an education and training department. The role of 'Work in Racing' is centred on the following:

- Provide strategic direction to equine industry education and training in Ireland to enable the industry to be fit for the future
- Support initiatives that promote Ireland internationally as a world class equine educational provider
- Ensure our educational and training interventions in the industry are relevant, fit for purpose, future proof and nationally accessible through strategic partnerships at national level
- Provide access to people working within the industry to tools to help them in their work, i.e. information on career choices, vocational training, career coaching, third level qualifications
- Sponsor programs that enable change and progression

'Work in Racing' Service; Individual & Personal Private Support Service

The Industry Assistance Programme (IAP)

The IAP is a complimentary benefit programme offered by HRI to employees in the equine industry. The IAP is intended to help employees deal with personal problems that might adversely impact their work performance, health, and well-being. Full details in relation to the IAP can be found at www.workinracing.ie

The IAP is:

- Available 24 hours a day, 7 days a week, 365 days a year
- Free of charge
- Accessible by phone, email, instant messaging, a website, and a dedicated app
- Assistance with any work, personal, or family issues
- Professional consultation, short-term counselling, information, resources and referrals to services in your local area
- Confidential and fully independent from HRI
- No limit to the number of issues you can gain support on

GOVERNMENT FUNDED EMPLOYER AND EMPLOYEE SUPPORT INITIATIVES

‘Work in Racing’ is available to assist employers’ in availing of any of the Government funded employer support initiatives that they are eligible for. Current examples include:

Skills For Work (SFW)

SFW is a national programme aimed at providing training opportunities to help employees deal with the basic skills demands of the workplace. The initiative is delivered by the Education & Training Boards (ETB) which have a presence in every county across the country.

The benefits of an SFW programme include the following:

- An SFW programme may include a variety of subjects which support the educational needs of the employee, it does not have to be solely equine focused and could include topics like digital marketing, communication skills, etc.
- The programme can be offered on company premises, the local ETB Adult Education Centre, or an alternative convenient location. Most offer free nationally recognised certification
- Sessions are usually 2 - 3 hours long and can be arranged for mornings, afternoons or evenings. Programmes are of 35 hours duration.
- There is no cost to the employer

Intreo JobsPlus

JobsPlus is an employer incentive from the Department of Employment Affairs and Social Protection, which offers a financial support to employers who offer employment opportunities to people who are unemployed. JobsPlus offers up to €10,000 for a qualifying recruit, payable on a monthly basis over a two-year period, providing the employment is maintained. In order to qualify an employer must offer full time employment of at least 30 hours per week, spanning at least four days per week to eligible recruits.

Employment Rights and Compliance Requirements for Employers

Pay and Wages

Pay rates are normally determined by the contract of employment. Rates of pay where specified in collective agreements between trade unions and staff associations and employers may also be incorporated expressly or by implication in the contract of employment. Employees must be paid for all hours worked, including overtime and attendance at race meetings and sales and other events during which the employee is ‘at the behest of the employer’ and available to perform work.

National Minimum Wage

Employees must be paid for their working hours at an hourly rate of pay that, on average, is not less than the prescribed minimum hourly rate of pay. There are, however, some exceptions to the entitlement to minimum wage, including those employed by close relatives, those aged under 20 and certain apprentices.

If you require further information check out

www.citizensinformation.ie

Minimum Pay under the National Minimum Wage Acts

EMPLOYEE	% OF NATIONAL MINIMUM RATE OF PAY
Experienced Adult Worker	100%
Employees who are 19 years of age*	Not less than 90%
Employees who are 18 years of age*	Not less than 80%
Employees who are under 18 years of age*	Not less than 70%
Experienced Adult Worker named by the Labour Court in granting a temporary exemption* to an employer from paying the national minimum hourly rate of pay.	The Labour Court will decide the lower hourly rate of pay that the employee must be paid for the period of the temporary exemption

*Prescribed by regulations made by the Minister for Employment Affairs and Social Protection. The prescribed percentages may not be less than those set out in the Table above.⁴

**Minimum period of temporary exemption is 3 months, maximum period is 12 months

The gross reckonable pay earned by an employee in a pay reference period is divided by the employee's working hours in that pay reference period. The average hourly rate of pay obtained must be not less than the minimum hourly rate of pay entitlement of the employee under the National Minimum Wage Act, as detailed in the Table above.

Reckonable and Non-Reckonable Pay

Reckonable pay means those payments or benefits in kind that are allowable in calculating the average hourly rate of pay of an employee, in order to determine if the employee has been paid his/her minimum hourly rate of pay entitlement under the National Minimum Wage Acts.

EXAMPLES OF RECKONABLE PAY	EXAMPLES OF NON-RECKONABLE PAY
Basic salary	Subsistence allowance
Commissions and bonuses (productivity related)	Overtime and call-out premiums
Board and lodgings (prescribed amounts)	Unsocial hours premium
Piece rates	Public Holiday/Sunday premium (where days worked)
Incentive rates	Expenses
Shift premium	Travel allowance
	Gratuity Payment/Benefit-in-kind

Sunday Working

Employees who work on a Sunday must be compensated for so working unless this has otherwise been considered in the determination of the pay rate. The methods of compensation are:

SUNDAY COMPENSATION	
• An allowance	• Increase in pay
• Paid time off	• Combination of these

⁴ Current minimum wage rates are available at www.workplacerelations.ie

Public Holidays; Pay and Benefits

All full-time employees qualify to benefit from a Public Holiday entitlement. Part-time employees qualify provided they have worked at least 40 hours during the 5 weeks ending on the day before the Public Holiday. Employees have the following entitlement for Public Holidays:

- If the Public Holiday falls on a day on which the employee normally works, the employee is entitled to a paid dayoff on that day.
- If the Public Holiday falls on a day on which the employee does not normally work, the employee is entitled
 - to 1/5th of his/her normal weekly wage for the day, or
 - to either a paid day off within a month or
 - to an additional day's leave as the employer may decide.
- If the employee is asked to work on a Public Holiday the employee is entitled
 - to either a paid day off within a month, or
 - an additional day's leave or
 - an additional day's pay as the employer may decide.

Pay Slips

Employers must give employees, with every wage packet/payment, a written statement of gross wages (payslip) itemising the nature and amount of each deduction. If wages are paid by credit transfer, the statement of wages should be given to the employee soon after the credit transfer has taken place.

Deductions from Pay

An employer can make the following deductions from an employee's wage:

- Any deduction required or authorised by law (e.g. PAYE or PRSI)
- Any deduction authorised by the term of an employee's contract (e.g. PRSA contributions)
- Any deduction agreed to in writing in advance by the employee (e.g. health insurance subscription).

Any deductions from wages which may arise from any act or omission of an employee (e.g. bad workmanship, breakages), or the supply by the employer of goods or services necessary to employment (e.g. provision or cleaning of uniforms) must, among other matters,

- Be provided for in the contract of employment, and
- Be fair and reasonable, and
- Be the subject of a written notification to the employee in advance of the act or omission/provision of goods or services, and
- Be made no later than 6 months after the act or omission/supply of goods or services), and
- Be of an amount not exceeding the loss to the employer (where loss or damage sustained by the employer, and
- Not exceed the cost to the employer (in the case of goods or services)

The non-payment of wages or any deficiency in the wages properly payable is regarded as an unlawful deduction from wages.

Sick Pay

Policy on sick pay may be decided by the employer and agreed as part of the employee's terms and conditions of employment.

The written statement of the Terms of Employment includes information on the terms and conditions relating to incapacity for work due to sickness or injury.

Holidays, Breaks, Rest Time

The deployment of staff and their working hours has become a 'key result area' for trainers and breeders and must be managed within the requirements and constraints of Working Time legislation.

The Organisation of Working Time Act, 1997 sets down the rules governing maximum working hours, daily and weekly rest breaks, annual leave and public holiday entitlements. Employers must ensure that stable staff are given all leave entitlements, and adequate rest breaks, and that the prescribed rest periods are taken.

Maximum Working Week

The maximum an employee should work in an average working week is 48 hours. This working week average should be calculated over a four-month period. There are, however, some exceptions to this average period; for example, a 6-month averaging period can be used where the work is seasonal or subject to a foreseeable surge in activity.

CATEGORY OF WORKER	REFERENCE PERIOD FOR AVERAGING
Employees who are night workers	2 months
Employees generally	4 months
Employees who work in specified sectors such as agriculture (including the caring for or the rearing or the breeding or training of racehorses) and whose work is subject to seasonality, a foreseeable surge in activity or where employees are directly involved in ensuring continuity of production	6 months
Employees who enter into a collective agreement with their employers which is approved by the Labour Court	Up to 12 months
Young people under 18	Fixed by the Protection of Young Persons (Employment) Act 1996

Young persons (16 and 17-year olds) may not be employed for more than 40 hours a week or 8 hours a day, except in a genuine emergency. The maximum weekly working hours for young persons and 14- and 15-year olds are:

AGE	MAX HOURS PER DAY/WEEK	PERMITTED HOURS OF WORK
14	Nil during school term 7 per day or 35 per week outside school term 8 hours per day or 40 hours per week on work experience	8am-8pm
15	8 per week (during school term) 7 per day or 35 per week outside school term 8 hours per day or 40 hours per week on work experience ⁵	8am-8pm
16 and 17	8 per day and 40 per week	6am-10pm

⁵ The reference to "work experience" is to training or work experience programmes approved by the Minister for Business, Enterprise and Innovation or an tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS).

Rests and Breaks

General

Appropriate rest breaks from work and breaks at work are vital to the health and safety of workers and are of importance in the efficient and effective operation of the workplace. Working time means any period during which the worker is working, at the employer's disposal and carrying out his/her duties. Rest and break periods mean any period which is not working time. There is no statutory entitlement to payment for breaks. Employees in general are entitled to the following rest and break periods -

REST TYPE	ENTITLEMENT
Daily (OWT Act Section 11)	11 consecutive hours daily rest per 24 hour period.
Weekly (OWT Act Section 13)	One period of 24 hours rest per week preceded by a daily rest period (11 consecutive hours).
Rest breaks at work (OWT Act Section 12)	15 minutes where more than 4 and a half hours worked, 30 minutes where more than 6 hours have been worked which may include the first break

['OWT Act' means Organisation of Working Time Act, 1977 (as amended)]

In each period of 7 days, employees must receive a continuous rest break of 35 hours, i.e. a daily rest period of 11 hours followed by the weekly rest period of 24 hours, which ordinarily should include a Sunday unless a different 24 hour period is provided for in the contract of employment.

Alternatively, in lieu of the continuous break of 35 hours in a 7 day period, the employee must receive, during the next period of 7 days,

- a continuous break of 59 hours, including a Sunday (i.e. a daily rest period of 11 hours followed by two 24-hour weekly rest periods), OR,
- two separate breaks of 35 hours each, one of which must include a Sunday (i.e. each of two breaks comprising a daily rest period of 11 hours followed by the weekly rest period of 24 hours).

By way of example, where a stable staff employee is required to attend a Sunday race meeting as part of normal duties, he/she would not receive the 24-hour weekly rest which is normally given on a Sunday. In that case, the employee could be granted the following Saturday and Sunday off preceded by an 11-hour daily rest period (i.e. a continuous break of 59 hours). Alternatively, the employee could be given the following Sunday off, preceded by an 11-hour rest period and another day off during the week, also preceded by an 11-hour rest period (i.e. two separate breaks of 35 hours each).

Note : the provisions concerning rest, breaks and working hours do NOT apply to a person who is in the employment of a relative (including being employed by a civil partner), so long as they reside at and are a member of the relative's household.

In addition, the provisions do NOT apply to a person the duration of whose working time (saving any minimum period of such time that is stipulated by the employer) is determined by himself or herself. This generally applies to senior executives and persons with autonomous decision-making powers rather than to individuals with rostered hours who may have flexibility in the management of their roster.

Exemptions

The rights of employees in relation to rest breaks are set out under sections 11, 12 and 13 of the Organisation of Working Time Act, 1997 (see Table above). Regulations⁶ made in 1998 by the Minister for Business, Enterprise and Innovation provide for an exemption from the application of these provisions in the case of a number of activities including agriculture.

Regulations⁷ made in 2018 by the Minister for Employment Affairs and Social Protection provide that, with effect from 19th December, 2018, the term ‘agriculture’, in the context of the activities specified in the working time legislation, includes ‘*the caring for or the rearing or the breeding or training of racehorses*’.

Exemptions from the rest/break requirements only apply in the following circumstances: -

1. the employee must be wholly or mainly engaged in carrying on or performing the duties of the activity concerned. For example, the employee would have to be wholly or mainly engaged in caring for or rearing or breeding or training racehorses,
2. there must be a foreseeable and significant variation in production, or the employee must be directly involved in ensuring continuity of production,
3. where the employer can demonstrate that the employee concerned can avail of equivalent compensatory rest.

Some other exemptions are summarised in the table below: -

CATEGORY	DETAILS	EXTENT OF EXEMPTION
	Applies to a person employed in an activity consisting of periods of work spread out over the day.	Applies to Daily and Weekly rest periods.
Exceptional circumstances/emergencies	Applies to exceptional circumstances or emergencies (including an accident or imminent risk of an accident), the consequences of which could not have been avoided despite the exercise of all due care and to unusual or unforeseen circumstances beyond the employer’s control, where it would not be practicable to comply.	Applies to Daily and Weekly rest periods, Rest Breaks at Work and Night Working Hours.
Travel	Applies to employees who are regularly required by the employer to travel distances of significant length, either from his/her home to the workplace or from one workplace to another workplace.	Applies to Daily and Weekly rest periods, Rest Breaks at Work and Night Working Hours.

⁶ Organisation of Working Time (General Exemptions) Regulations 1998 (S.I. No. 21 of 1998)

⁷ European Communities (Organisation of Working Time) (General Exemption) Regulations 2018 (S.I. No. 576 of 2018)

It is important that equivalent compensatory rest is provided as soon as possible and, generally, in an adjacent timeframe. The Labour Court has held that compensatory rest must be provided at the first available opportunity to do so. The employer should also ensure that the health and safety requirements for adequate compensatory rest are sufficient in the circumstances pertaining in that employment. Consideration should also be given to such issues as distance from home and employment in order to ensure that adequate rest is obtained.

It is only where the employer can show that it is providing compensatory rest periods in accordance with the legislation that the employer can then rely on the exemptions, i.e. the exemptions may not be invoked by an employer where the employees concerned are not given equivalent periods of compensatory rest.

During the equivalent period of compensatory rest, the worker must not be subject to any obligation vis-à-vis the employer that may prevent him or her from pursuing his/ her own interests in order to neutralise the effects of work on his or her safety or health.

The Code of Practice on Compensatory Rest Periods⁸ can assist employers in observing the requirements relating to equivalent compensatory rest and gives guidance on the arrangements that may be put in place to achieve compliance. The Code sets out four examples of typical situations in which equivalent compensatory rest may arise. An extract from the Code of Practice identifying the four examples is at Appendix 3. [Note that the Code of Practice advises that complaints be referred to Rights Commissioners, but they have since been succeeded by Workplace Relations Adjudication Officers.]

By way of further example, travel to a distant evening race meeting, or breeders travelling to distant thoroughbred sales, could result in employees not receiving a daily rest break (11 hours). If the return time is after midnight, say 00:30 hours, then, in the normal course the employee could not return to duty until at least 11:30 hours on the following day (to meet the 11 hour rest requirement). If this is not possible operationally, then an equivalent compensatory daily rest period should be provided as soon as possible and, generally, in an adjacent time frame.

Such travel could also result in employees not receiving a weekly rest break. In such cases it should normally be possible to provide the weekly rest within the 14 day window, i.e. by providing for a continuous break of 59 hours or two separate continuous breaks of 35 hours in the next 7-day period. If this is not operationally possible the compensatory rest provisions may apply subject to the foregone weekly rest being provided as soon as possible and, generally, in an adjacent time frame.

It should be noted that the “*travel exemption*” only applies in circumstances where the relevant employee is regularly required to travel distances of significant length and where the employee concerned is engaged wholly or mainly in carrying on or performing the duties of the activity concerned.

It is important that detailed records are kept to show that the ‘Exemptions’ requirements for rest/ breaks arising from a) or b) above are met, that an exemption was necessary and can be relied upon and, where relevant, how compensatory rest has been granted and taken. In the absence of automated or similar facilities, hours of work for each employee (including starting and finishing times) may be kept in the form of ‘Form OWT1’ at Appendix 4, or in a form substantially to like effect.

⁸ Organisation of Working Time (Code of Practice on Compensatory Rest and Related Matters) (Declaration) Order, 1998 (S.I. No. 44 of 1998)

Breaks for Young Persons

16 and 17 year olds must receive a 30 minutes break if working for more than a 4.5 hour period and two days off in every 7 days. 14 and 15 year olds must be given a 30 minutes break if working more than 4 hours, two days off in every week (if working during the school holidays) and a 21 day break from work in the Summer.

AGE	30 MINUTES BREAKAFTER	TIME OFF EVERY 24 HOURS	TIME OFF EVERY 7 DAYS
Under 16s	4 hours	14 hours	2 days
16 and 17	4 1/2 hours	12 hours	2 days

There is no statutory entitlement to payment for breaks.

Holidays

Holiday entitlements are earned from the date of commencement of employment.

Annual leave is accrued based on time worked by the employee. The maximum annual leave entitlement is 4 working weeks paid annual leave per leave year. However, contracts may provide for more than this.

Full-time employees earn one week of paid annual leave for every three months worked. Employees who work 1365 hours in any given leave year have earned their full four-week annual leave entitlement at that point, except if it is a leave year in which the employee changes employment.

Part-time employees are entitled to annual leave consisting of 8% of hours worked, subject to a maximum of four working weeks in the leave year.

Public Holidays

Employees are also entitled to paid time off/leave, or an extra day's pay in respect of public holidays. Part-time employees qualify for Public Holiday entitlement provided they have worked at least 40 hours during the 5 weeks ending on the day before the Public Holiday.

PUBLIC HOLIDAYS
1st January (New Year's Day)
St. Patrick's Day;
Easter Monday;
The first Monday in May;
The first Monday in June;
The first Monday in August;
The last Monday in October;
Christmas Day;
St. Stephen's Day;

Employees have an entitlement to one of the following benefits for Public Holidays:

- Paid day off on that day, or
- Paid day off within a month of that day, or
- Additional day off/leave, or
- Additional day's pay

As each employee must enjoy a benefit, at the discretion /decision of the employer, the following defines how to apply the benefit:

1. If the Public Holiday falls on a day on which the employee normally works, the employee is entitled to a paid day off on that day.
2. If the Public Holiday falls on a day on which the employee does not normally work, the employee is entitled to 1/5th of his/her normal weekly wage for the day, or to either a paid day off within a month or an additional day's leave as the employer may decide.
3. If the employee is asked to work on a Public Holiday the employee is entitled to either a paid day off within a month, or an additional day's leave or an additional day's pay as the employer may decide.

Protective Leave

There is a range of legislation providing employees with the right to certain leave, during which all their employment terms are 'protected' as if they were at work, until they return. This is such as maternity leave, health and safety leave, parental leave, adoptive leave, and carer's leave. Employers are obliged to allow employees (who meet relevant qualifying criteria, if any) to avail on occasions of certain statutory protective leaves. The following is a summary of the entitlements. Further details are available at welfare.ie, or at workplacerelations.ie.

Maternity Leave

The Maternity Protection Acts 1994 and 2004 provide for a statutory minimum entitlement to maternity leave. A pregnant employee is entitled to 26 weeks' maternity leave (2 of which must be taken before the baby is born) as well as an entitlement to an additional 16 weeks' unpaid maternity leave.

Paternity Leave

With effect from 1 September 2016, fathers are entitled to 2 weeks paid paternity leave from employment or self-employment following the birth or adoption of a child. This leave may be taken at any time within the first 6 months following the birth or adoption placement.

Parental Leave

The Parental Leave Act 1998 provides for 18 weeks unpaid parental leave for a child up to the age of eight, or 16 years of age in the case of a child with a serious illness or disability. The Parental Leave (Amendment) Act 2019 expanded this entitlement by eight weeks, which comprises an increase of an additional four weeks from 1st September 2019 and a further four weeks from 1st September 2020. The Act also increased the age of the child for which parental leave is available from eight to 12 years.

Adoptive Leave

Under the Adoptive Leave Act 1995, as amended by the Adoptive Leave Act 2005, an adoptive mother is entitled to avail of adoptive leave from employment. Since 1 March 2007, the adopting parent is entitled to 24 weeks' adoptive leave. A person adopting a child is also entitled to take an additional 16 weeks of unpaid adoptive leave after the 24-week paid leave ends.

Parent's Leave

The Parents Leave and Benefit Act 2019 provides two weeks statutory leave for a relevant parent within the first year of a child's life, or in the case of adoption, within one year of the placement of the child with the family. Parent's leave is available to each parent.

Parent's Leave, Paternity Leave and Parental Leave are individual family friendly leaves. Each leave must be applied for separately and has different entitlements.

SECTION 3; ANNEX

Record Keeping

An employer must keep all records that are necessary to show whether employment rights are being complied with in relation to an employee, for at least 3 years from the date any record is made. The records must be kept by the employer at the premises or place where the employee works, or if the employee works at 2 or more premises or places, the premises or place from which the activities of the employee are principally directed or controlled.

The following list sets out the standard employment records which Employers must keep and to which a Workplace Relations Commission (WRC) Inspector will require access during any inspection: -

- 1 The completed template sent with the inspection appointment letter issued from WRC, or the same information in a similar format
- 2 Employer registration number with the Revenue Commissioners
- 3 List of all employees including full name, address and PPS number for each employee (full-time and part-time)
- 4 Written terms of Employment for each employee and a Statement of 'Core Terms' of Employment
- 5 Payroll details (including Gross to Net, Rate per hour, Overtime, Deductions, Shift and other Premiums and Allowances, Commissions and Bonuses, Service Charges, etc.)
- 6 Evidence that the employer has provided payslips to employees
- 7 Employees' job classifications
- 8 Dates of commencement and, where relevant, termination of employment
- 9 Hours of work and breaks for each employee (including starting and finishing times meal breaks and rest periods). These may be in the form of OWT1 Form or in a similar form. See Appendix 4 for sample OWT1 forms for single and multiple employees.
- 10 Register of employees under 18 years of age
- 11 Details of any board and/or lodgings provided to employees
- 12 Holiday and Public Holiday entitlements received by each employee
- 13 For non-EEA nationals, employment permits or evidence that permits are not required.
- 14 Any documentation necessary to demonstrate compliance with employment rights legislation.

The Workplace Relations Commission has made available on workplacerelations.ie an Employers Record Log which contains templates to assist employers in meeting their statutory obligations including an Employers Checklist for Inspections, sample Terms of Employment and sample 'Core Terms' (also available at Appendix 1 and 5), and OWT1 forms.

Specific "Records for "Young Persons"

In addition, employers are required to keep, the following records for any children (14 and 15-year old's) and young persons (16 and 17-year old's) employed by them -

- full name
- date of birth
- time work begins and finishes each day
- rate of wages or salary paid per day, week, month or year, as appropriate
- total amount of wages or salary paid to each person

CHILD PROTECTION AND SAFEGUARDING

Horse Racing Ireland and our industry stakeholders are committed to ensuring the safety and welfare of all participants especially that of children, young persons and vulnerable persons, so that they can participate in activities within the horse racing industry in a safe environment.

The Children First Act 2015 provides a statutory framework for all individuals and organisations, supporting Children and Young People, ensuring that they are kept safe and their welfare maintained to a high standard whilst participating within the services we provide.

Additionally, the Children First National Guidance for the Protection and Welfare of Children 2017, provides guidelines for the introduction of measures to fulfil the statutory obligations of the Children First Act 2015.

Everyone shares the responsibility for safeguarding, therefore, we must all endeavour to create safe environments whether as an employer, colleague, or representative of the industry. We must ensure that any concerns about children which may arise are dealt with promptly and in an appropriate manner.

It is not for us to decide whether or not child abuse is taking place. We do, however, have a responsibility to protect children in order that the appropriate agencies (Tusla/An Garda Síochána) can make enquiries and take any necessary action to protect the child.

We encourage all those involved in the horse racing industry to consider their own safeguarding procedures and the risk of harm to young people or adults at risk in the course of their activities, particularly so, where any individuals have direct, unsupervised access to young people, or adults at risk. Where such risk is identified, we expect the appropriate steps to be taken in order to reduce that risk as far as possible.

A person wearing a helmet and carrying a bag is walking away from the camera down a stable aisle. The image is overlaid with a blue tint.

SECTION 4

PEOPLE - ENDING EMPLOYMENT

EMPLOYMENT GUIDE FOR THE HORSE BREEDING AND RACING SECTORS

4

SECTION 4

PEOPLE - ENDING EMPLOYMENT

The termination of the employment relationship can occur in many ways. The most straightforward is where the employee resigns (having given at least one week's notice, or more if the contract provides for it). However, the other occasions of termination of the employment relationship are governed by the requirements of statutory legislation. Consequently, if not handled properly, it can lead to a complaint that it was not fair.

“Good Practice”

In all situations the end of the relationship should not come as a surprise to either party. The fundamentals of good practice are the need for; -

- employee engagement in fair dialogue prior to dismissal
- compliance with the undertakings of the employment contract
- compliance with statutory obligations
- reasons for any termination to be objective and manifest

The prerequisite in good practice in ending employment is dialogue with the employee which must be at the earliest possible moment, with the employer's intentions stated clearly, and the reasons justifying same, and where the employee is given the opportunity to “have their say”.

The ‘principles of natural justice’ which should be followed in the dialogue are:

- The Right to be told or be informed
- The Right to be represented
- The Right to respond
- The Right to a fair and impartial outcome which is based on facts
- The Right to appeal

In any employer- employee dialogue and discussion, each case should be considered separately, within its context, and on its own merits.

The employer should have as a goal that previous employees will speak well of that employer when they ‘move on’. Where this is done fairly and proportionately the employee will leave with less regret, and the risks of a claim being lodged against the employer will be reduced.

Termination and Compliance with Employment Contract Provisions

The protocols for future termination are provided for at the outset in the contract of employment in various respects.

Firstly, the employment contract should indicate what period of notice the employer will give when termination arises, or to state that notice will accrue in step with the statutory provisions for “Minimum Notice” (e.g. 2 weeks' notice if working for between two and five years).

The Fixed Term (or Temporary) contract provides a good example which presents an opportunity for dialogue before the date of termination, since the date for termination can be anticipated and is un-disputed. Despite that an “end date” was agreed at the outset, it should not be presumed that no further dialogue needs to occur. The employee is entitled to be told (and if not told, enabled to enquire) about any reasons if the contract is not continuing -- called a “renewal”. The dialogue should commence well before the end date in question and should be recorded briefly. The ending of a Temporary Contract should be dealt with in like manner.

Each type of contract should identify a retirement age, if such an age is planned. However, it must be noted

carefully that defining such an age is also required to meet Employment Equality legislation standards, which is to say that it should be “objectively justified”. Note that where a pension scheme is in place which sets a date when pension benefits might become payable, that is a separate matter from retirement, and the existence of a pension age does not automatically set a retirement age.

The criteria to assess objective justification for retirement age are difficult to apply in many workplaces. It essentially relates to the need to have the possibility to open -up career development and succession opportunities for the upcoming generations, as well as based on an employee's individual safety and health considerations and concerns. Where any of these factors are used to support “objective justification”, they must be related to the practice in that specific employment and demonstrate that it is a legitimate aim.

This is such a complex area of statutory legislation that a “Code of Practice” to guide all employers and employees was issued in 2017 as a Statutory Instrument, viz.SI 600 / 2017. All employers should take appropriate advice before specifying or applying a retirement age.

Termination of Employment Entitlements and Practices defined clearly in Legislation

-- Minimum Notice

Every employee who has been in the employment of his/her employer for at least 13 weeks is entitled to a minimum period of notice before that employer may dismiss him or her. This period of notice varies from one to eight weeks according to the length of service. So-called “summary dismissals” (i.e. dismissals without notice) arise in only the most serious of cases. The objective test to justify ‘summary dismissal’ is that there is fair reason why the employment could not be allowed to continue for even a moment longer.

An employer and employee may agree payment in lieu of notice. An employee's minimum notice entitlement is as follows:

LENGTH OF SERVICE MINIMUM	NOTICE
Thirteen weeks to less than two years	One week
Two years to less than five years	Two weeks
Five years to less than ten years	Four weeks
Ten years to less than fifteen years	Six weeks
More than fifteen years	Eight weeks

An employee who has 13 weeks service with his/her employer is obliged to give one week's notice to his/ her employer when resigning, unless there is a written contract of employment that provides for a longer period, in which case this notice period must be given.

Termination by Redundancy

A redundancy situation arises, in general, where a job no longer exists, and the person who held the job is not replaced.

An employee must have at least two years continuous service (104 weeks) to qualify for statutory redundancy. All eligible employees are entitled to a statutory redundancy lump sum payment on being made redundant. An employee is entitled to two weeks' pay for every year of service, with a bonus week added on, subject to the prevailing maximum ceiling on gross weekly pay which is €600

The redundancy lump-sum must be paid directly to the employee.

An employer who is making an employee redundant must give appropriate notice to the employee according to the length of service under the Minimum Notice and Terms of Employment Acts 1973 - 2005, or the employees contract whichever is the greater.

Notice of redundancy is required two weeks before the termination of employment and must be given in writing. This can be done, as a convenience, either by using Part A of the RP50 form or by informing the employee in writing of the redundancy. The employee should not sign Part B of the RP50 form until they have received their redundancy payment. For more information including how to access an RP50 and to calculate redundancy entitlements using the redundancy calculator, log onto www.welfare.ie.

Redundancy Calculator

All fields marked with an asterisk (*) are mandatory.

All dates are in the format DD/MM/YYYY, for example to enter the 07th September 1973 you should type 07/09/1973.

Employment Dates & Date of Birth	Hours Worked & Gross Pay
Date of Birth*: <input type="text"/>	Weekly hours*: <input type="text"/>
Employment Start Date*: <input type="text"/>	Gross Weekly Wage in Euro(€)*: <input type="text"/>
Date of Notice of Termination*: <input type="text"/>	
Employment End Date*: <input type="text"/>	

Breaks in Service		
Only Breaks in Service in the three years prior to your employment end date are required for calculation purposes		
1: Start Date: <input type="text"/>	End Date: <input type="text"/>	Reason: <input type="text"/>
2: Start Date: <input type="text"/>	End Date: <input type="text"/>	Reason: <input type="text"/>
If required, add extra Breaks in your Service <input type="button" value="Add Two Breaks"/> <input type="button" value="Add Breaks"/>		
<input type="button" value="Calculate"/>		

“Collective Redundancy” arises where an employer with more than 20 employees intends to make a number redundant at the same time. The legislation requires the employer to consult with employee representatives on any alternatives to redundancy over a 30-day period, before redundancies are capable of being affected. Only after 30 days can the minimum two-week notice of redundancy (or more, if entitled) be issued.

Further Redundancy legislation, which is more stringent on the potential penalties for employers, forbids general ‘backfill’ of vacancies with different persons on lesser terms and conditions.

Any claim as to whether a decision to select an employee for redundancy is fair is dealt with under the Unfair Dismissals Acts.

Termination by Dismissal

Employees are protected from being unfairly dismissed from their jobs. Criteria are laid down in the Unfair Dismissals Acts by which dismissals are judged to be unfair. The law applies to employees who (with certain exceptions, see below) have had at least one year’s continuous service with the same employer.

The Unfair Dismissals Acts presume every dismissal of an employee to have been unfair unless the employer can show substantial grounds justifying the dismissal.

Fair Reasons

In order to justify a dismissal, an employer must show that it resulted wholly or mainly from one or more of the following causes:

- i. the capability, competence or qualifications of the employee,
 - ii. the employee's conduct,
 - iii. the redundancy of the employee,
 - iv. the fact that continuation of the employment would contravene another statutory requirement,
- or that there were other substantial grounds for dismissal.

While redundancy can be a fair reason for dismissal, it can be challenged under the Acts as unfair, if the rationale for selection of an employee was disproportionate, or unbalanced, when compared to another who was not selected for redundancy.

An employer who has dismissed an employee must furnish in writing within 14 days the reason for the dismissal. It can also be construed as dismissal if a person's conditions of work are made so difficult that he or she feels obliged to leave, called constructive dismissal

Unfair Reasons

Dismissals are deemed unfair when they have resulted wholly or mainly from one or more of a range of reasons. These arise typically from an employer's non-compliance with other statutory employment rights, or one of the "9 grounds" of discrimination, or that alleged employee shortcomings were not in fact able to be demonstrated, as well as other specific grounds. The extensive list is at the Section 4 Annex.

Fair Procedure

In all cases of intended dismissal, the employer must act reasonably, engage with the employee prior to dismissal, and must give in writing the reasons for the decision, and nominate the date of termination.

It should be clear that the dismissal decision was proportionate, when related to the original shortcomings cited. The employee must be given the opportunity to appeal any such decision to a 'previously un-involved' person. If the procedures are not seen to be fair, a dismissal will be deemed unfair even where an otherwise fair reason exists.

The principles and process for consideration of disciplinary issues (usually those of conduct), prior to reaching any dismissal decision, are set out in a Code of Practice on Discipline, viz. Statutory Instrument - "SI 146 of 2000" which is reproduced at Appendix 2 as part of this guide.

Unfair Dismissals Act --- Exceptions to 12 month Service Requirement

There are several exceptions to the requirement for employees claiming dismissal to have 12 months continuous service with their employer. These include dismissal due to:

- a) trade union membership or activity, either outside working hours or at those times during working hours when permitted by the employer,
- b) exercising the right to pregnancy or matters connected therewith, as well as adoptive, parental, carers and paternity leave.
- c) exercising rights under the National Minimum Wage Acts,
- d) having made a protected disclosure.

“EVERY EMPLOYEE WHO HAS BEEN IN THE EMPLOYMENT OF HIS/HER EMPLOYER FOR AT LEAST 13 WEEKS IS ENTITLED TO A MINIMUM PERIOD OF NOTICE BEFORE THAT EMPLOYER MAY DISMISS HIM OR HER. THIS PERIOD OF NOTICE VARIES FROM ONE TO EIGHT WEEKS ACCORDING TO THE LENGTH OF SERVICE.”

.....



Pay on ending employment

On termination of employment, employers are required to provide a statement of pay and deductions, pay the employee any outstanding amounts, issue a final pay slip and provide information in relation to pension scheme entitlements.

Employees may have untaken annual leave (including leave accrued while on certified sick leave) and Public Holiday entitlements on cessation of employment. Employers must pay the employee an amount equal to the pay, calculated at the normal weekly rate that the employee would have received had he/she been granted that leave before cessation. Likewise, if an employee has been overpaid annual leave based on their final date of employment, this may be rectified in their final pay slip.

Where an employee ceases to be employed during the week ending on the day before a Public Holiday and the employee has worked for the four weeks preceding that week, the employer must pay that employee an additional day's pay calculated at the appropriate daily rate.

Change of Employer by Transfer of Undertakings

The employment law rights, and obligations of the original employer must be transferred to the new employer in the event of the transfer of the business or part of the business. The new employer must observe at the point of transfer the terms and conditions agreed in each employee's contract, and in any collective agreement, on the same terms as were applicable to the original employer. Future change to terms and conditions should only be made following notification to, and consultation with, employees and cannot be made simply by reason of the change of employer in the transfer. The law only provides for notification within 1 month of the change.

Complete List of reasons which may consist of grounds for an unfair dismissal

- i. the employee's trade union membership or activities, either outside working hours or at those times during working hours when permitted by the employer,
- ii. civil or criminal proceedings against the employer in which the employee is, or is likely to be, involved (as party, complainant or witness),
- iii.
 - the race or colour or sexual orientation of the employee,
 - the age of the employee,
 - the employee's membership of the travelling community,
 - the religious or political opinions of the employee
- iv. the employee's pregnancy, attendance at ante-natal classes giving birth or breastfeeding or any matters connected therewith,
- v. the exercise or proposed exercise by the employee of the right under the Maternity Protection Acts 1994 and 2004 to any form of protective leave or natal care absence or to time off from work to attend ante-natal classes or to time off from work or a reduction of working hours for breast feeding in accordance
- vi. the exercise or proposed exercise by an employee of the right to adoptive leave, additional adoptive leave or time off to attend certain pre-adoption classes or meetings under the Adoptive Leave Acts 1995 and 2005,
- vii. the exercise or proposed exercise by the employee of the right to parental leave or force majeure leave under the Parental Leave Act 1998, or carer's leave under and in accordance with the Carer's Leave Act 2001,
- viii. the employee having made a protected disclosure,
- ix. the employee's exercising of rights or proposed exercise of rights under the National Minimum Wage Acts 2000 and 2015 or under the Safety, Health and Welfare at Work Act 2005.



A person wearing a helmet and a dark jacket is walking away from the camera in a stable yard. They are carrying a large white bucket in their right hand and a smaller white bucket in their left hand. The background shows a stable building with several windows and a paved area.

SECTION 5

HEALTH AND SAFETY IN STABLEYARDS

EMPLOYMENT GUIDE FOR THE HORSE BREEDING AND RACING SECTORS

5

SECTION 5

HEALTH AND SAFETY IN STABLEYARDS

Working with Thoroughbreds: Prioritising Safety and Managing Risk

All horses, particularly thoroughbreds, can be nervous and unpredictable. They pose a significant workplace hazard to those who are employed to work with them both in hand and when being ridden.

It is an employer's legal duty to ensure, so far as is reasonably practicable, the health and safety of employees and others who may be impacted by the employer's working activities.

The thoroughbred sector is labour intensive and a major rural employer. From the standpoint of health and safety, it is considered to be part of the agricultural sector. Agriculture as an industry has a significant reportable accident rate.

A high proportion of horse related workplace injuries may go unreported and therefore lead to a false sense of security by industry participants and by the enforcing authorities. Because of increasing claims insurance providers are becoming more aware of the liability and this, in turn, leads to increased insurance premiums.

- A hazard is a circumstance with the potential to cause injury or harm.
- A risk is the likelihood of harm or injury resulting from the hazard.

All significant injuries result in accident consequences: pain, suffering and lost working time for the injured employee. For the employer or owner, the consequences include increased costs and disruption as well as reputational damage and a lowering of workplace morale.

It is in an employer's best interest to implement measures to prevent or limit the impacts of an injury at work. It is not acceptable to dismiss horse-related injuries as "part of the job" or "occupational hazards". Awareness of the risks involved is just a starting point: there is an onus on everyone involved (employers, employees, contractors) to mitigate those risks.

Working with Thoroughbreds

The hazards involved depend on the type of activity the horse is doing. Stallions, mares, young stock and horses in training have both shared and distinct risks which need to be properly assessed and managed.

Accident Causation

There is a wide range of activities which can result in injuries. The following is by no means an exhaustive list: riding out; schooling; catching a horse in a stable or paddock; bringing a horse in or taking a horse out to a paddock; putting a saddle or bridle on; leading and showing; grooming; picking out feet; feeding; holding for vet, farrier, physiotherapist or dentist; holding for covering (mating); breaking to tack; "rugging up"; bandaging legs or feet; carrying out veterinary-related treatments; loading/unloading into a horsebox, aircraft or stall; moving a horse to new or unusual surroundings. Typically accidents are caused by one or a combination of the following: the horse "spooks" because of an unfamiliar situation or surroundings; the handler/rider lacks or loses concentration; the handler/rider has inadequate experience or knowledge of the activity; the manager/supervisor has inadequate experience or knowledge of the activity or of the handler's/rider's capabilities.

Injury Causation

The wide range of injuries can be caused by: impact with a horse; impact with the ground or structure following a fall from a horse; kicked by a horse; bitten by a horse; pulled or pushed by a horse; stood on by a horse; rolled on by a horse. Injuries tend to result, in descending order of frequency: soft tissue damage; hematoma; laceration; head injury; dislocation; fracture; amputation; fatality. In descending order of frequency, the following body parts are injured: fingers; hands; toes and feet; arms and legs; head, neck and face; chest; spine (excluding neck); pelvis. In many cases a combination of injuries and injury locations are sustained in the one event.

Risk Rating

Horse husbandry and riding are crafts with working practices developed over hundreds of years. Many of these skills are inherently safe and have a positive impact on risk. However, in today's increasingly risk averse and regulated workplace they are, in themselves, no longer enough. When conducting a risk assessment, it is necessary to quantify the risk of harm or injury resulting from working practice. Quantifying risk is important for those managing workplace safety. Safety practitioners can then determine which working tasks have the highest risk with a view to controlling these risks as a priority.

Much like other high-risk industries, working practices are expected to be risk assessed with safe methods of work applied and working systems formalised. Employees are required to have an acceptable level of competency. This means adequate knowledge, training and experience to safely complete the work practices they are required to follow by their employer. It is the employer's responsibility to confirm this. These factors are important both to reduce the likelihood of injury and to protect against the resulting consequences.

Risk Assessment

Workplace risks are rationalised and controlled by conducting and the implementing a Risk Assessment. This is done by:

- identifying the working task hazard
- determining the level of risk associated with the task
- adopting control measures to eliminate the risk or, when this is not possible, reducing the risk to its lowest possible level

Control measures are described as preventative controls, which are the most important and are aimed at preventing an injury accident occurring and responsive controls which are to limit the effect of an injury if an injury accident occurs.

Controlling Risk and Developing a Safety-Conscious Culture

Employers, employees and contractors must be fully engaged in ensuring that the workplace has a safety-conscious culture. Only then can safety management systems become truly and consistently effective. Poor safety engagement and a poor safety culture are barriers to effective safety management and negatively impact on the workplace.

Health and Safety in the Workplace

The main legislation providing for the health and safety of people in the workplace is the Safety, Health and Welfare at Work Act 2005 (the Act). This applies to all employers, employees (including fixed-term and temporary employees and self-employed people (contractors in their workplaces. The Act sets out the rights and obligations of both employers and employees and provides for substantial fines and penalties for breaches of the legislation.

The Health and Safety Authority identify Agriculture and Forestry as being in the same category as regards risk assessment and risk management. Appropriate advice for risk assessments and safety statements, together with advice on safe working responsibilities for employers and employees is provided on their website at www.hsa.ie

Statutory Obligations: Duty of Care of Employer

Under Section 8 of the Act the employer has a duty to ensure employees' safety, health and welfare at work as far as is reasonably practicable. In order to prevent workplace injuries and ill health the employer is required, among other things, to:

• Provide and maintain a safe workplace which uses safe plant and equipment
• Prevent risks from use of any article or substance and from exposure to physical agents, noise and vibration
• Provide instruction and training to employees on health and safety
• Provide protective clothing and equipment to employees
• Appoint a competent person as the organisation's Safety Officer

Statutory Obligations: Duty of Care of Employees

The duties of employees while at work are set out in Section 13 of the Act. These include:

• To take reasonable care to protect the health and safety of themselves and of other people in the workplace
• Not to engage in improper behaviour that will endanger themselves or others
• Not to be under the influence of drink or drugs in the workplace
• To undergo any reasonable medical or other assessment if requested to do so by the employer
• To report any defects in the place of work or equipment which might be a danger to health and safety

Safety Statement and information manual

Under the Safety, Health and Welfare at Work Act 2005 every employer is required to carry out a risk assessment for the workplace which should identify any hazards present in the workplace, assess the risks arising from such hazards and identify the steps to be taken to deal with any risks. A hazard is anything that may cause harm. You should concentrate on significant hazards, those that can cause serious harm or affect many people. Hazards may be considered under the headings of physical, chemical, biological and human factor hazards.

POTENTIAL HAZARD	POTENTIAL CONSEQUENCES	CONTROL MEASURES
PHYSICAL HAZARDS		
Lifting, handling & storing heavy bales	Musculoskeletal injuries; falls from height, being struck by falling bales or head, crush or back injuries	Manual handling training, forklift use for heavier objects. Bale handling & forklift usage should only be carried out by those who are trained & competent.
Handling horses & Riding out	Falls &/or injury while on the horse; kicks; bites, scratches and other serious injuries	Horse handlers are competent and trained in safe work practices for each task. Riders should always wear the appropriate approved safety gear including helmets, body protectors. Ensure riders are competent for the horses they are assigned to.
CHEMICAL HAZARDS		
Chemicals	Exposure to chemicals can cause skin and eye irritation, ill health and other serious injuries	A list (inventory) of all chemicals used in the workplace has been prepared
BIOLOGICAL HAZARDS		
Vermin	Contact with vermin or their bodily fluids may result in bites or infection which could cause serious illness or disease	Vermin eradication programme to be in place where practical. Work practices / procedures to control risk of diseases from animals
HUMAN FACTOR HAZARDS		
Driving for Work	Driving on the public road may result in collisions which may cause serious injuries for you and any passengers	Adequate rest breaks are planned and taken, and adequate time is allowed for journeys, taking account of road, traffic and weather conditions

Please refer to the www.BeSmart.ie tool developed by the HSA to complete and print-off a full risk assessment designed for the agribusiness sector for any of the above hazards.

The employer must also prepare a Safety Statement which is based on the risk assessment. The statement should contain the details of people in the workforce who are responsible for safety issues. Employees must be given access to the Safety Statement and employers should review it on a regular basis. An employer should carry out a separate Risk Assessment in relation to any employee under 18 years of age (a 'Young Person') and any pregnant employee.

COVID-19 (Coronavirus) Key information and resources

A new coronavirus that had not previously been seen in humans was identified in December 2019. The virus is called Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) and the disease that it causes is called Coronavirus Disease 2019 (COVID-19). Ireland proposed to classify SARS-CoV-2 as a risk group 3 biological agent in alignment with other EU member states' provisional classifications. Workplaces where the nature of the work poses an occupational exposure health risk to COVID-19 such as in healthcare and laboratory settings, were required to ensure that an appropriate Biological Agents risk assessment were carried out.



Workplaces where there is no occupational exposure health risk to Covid-19, employers are required take into account the most up to date official public health advice and guidance from the Department of Health and the Health Protection Surveillance Centre on how to mitigate the health risk including measures advised by the Department of Foreign Affairs and Trade for work related travel.

Return to Work Safely Protocols designed by the Department of Health were adapted by Horse Racing Ireland in consultation with the IHRB to design a COVID-19 protocol document to enable the safe return to racing. The document detailed COVID-19 protocols for each industry group and the procedures which must be undertaken by all racecourses hosting race fixtures, to ensure that racing resumed in a safe and appropriate manner for everyone.

Young Person's Risk Assessment

This risk assessment should be carried out before the young person is employed. If certain risks are present, including risks that cannot be recognised or avoided by the young person due to factors such as lack of experience, the young person should not be employed.

Pregnancy and Maternity Risk Assessments

Risk assessments for pregnant employees is a separate category. It is not just in the employees' interest, but also a critical statutory requirement. If there are risks to an employee's pregnancy, these should be either removed or the employee moved away from them. Under the Maternity Protection Act 1994 if neither of these options is possible, the employee should be given health and safety leave from work, which may continue up the beginning of maternity leave.

- If a doctor certifies that night work would be unsuitable for a pregnant employee, the employee must be given alternative work or health and safety leave

Following an employee's return to work after maternity leave,

- If there is any risk to the employee because she has recently given birth or is breastfeeding, it should be removed. If this is not possible, the employee should be moved to alternative work. If it is not possible for the employee to be assigned alternative work, she should be given health and safety leave.
- If night work is certified by a doctor as being unsuitable after the birth, alternative work should be provided. If alternative work cannot be provided, the employee should be given health and safety leave.

Health and Safety Leave

Time spent on health and safety leave is treated as though the employee has been in employment, and this time can be used to accumulate annual leave entitlement. The employee is not entitled to leave for any public holidays that occur during health and safety leave. During health and safety leave, employers must pay employees for the first 21 days (3 weeks) their normal wage, after which Health and Safety Benefit may be paid.

Training

All employees must be trained in safe work practices and this training should include:

- The hazards and risks within the workplace
- The hazards and risks related to specific tasks carried out by the person
- The control measures in place to minimise exposure to these risks
- Information and instructions on the job to be carried out and how to work safely
- Measures to be taken in an emergency.

The Safety, Health and Welfare at Work Act 2005 strongly emphasizes the need to provide employees with instruction, information and training necessary to ensure their health and safety at work. Providing employees with health and safety information and training reduces the chance of them suffering injuries or ill health. It helps them acquire the skills, knowledge and attitude to make them competent in the safety and health aspects of their work and instils a positive health and safety culture.

Safety Induction

Many organisations carry out induction training for new employees on the day they start employment to impart information not always covered during interview. It is here that very often the Employee Handbook will be issued, with its finer details explained for clarity and understanding. Points covered during induction for employment issues should include lines of authority and communication and sick absence reporting.

Key areas for safety-specific induction include:

- Health and Safety rules
- Introduction to the site Safety Statement
- Explanation of site evacuation procedures
- What to do in the event of illness at work
- How to report an accident or near miss/dangerous occurrence incident at work

The above list is not exhaustive - induction training will generally involve a thorough explanation of the employee's duties and responsibilities, including all identified safety risks specific to the stud/stable yard.

Personal Protective Equipment: PPE

At induction employers in all employments should tell employees about any risks that require the wearing of protective equipment (PPE). The employer should provide PPE (such as protective clothing, headgear, footwear, eyewear, gloves) together with training on how and when to use it. The protective equipment should be provided free of charge to employees if it is intended for use at the workplace only. An employee is under a duty to take reasonable care for his/her own safety and to use any protective equipment supplied. Employees should be provided with their own personal equipment. Employers and supervisors should ensure PPE is being used as directed and take disciplinary action when it is not.

First Aid

According to the Act, employers have the obligation to provide First Aid provisions at all places of work which should be easily accessible to all employees. There should be a clearly displayed list of emergency contact numbers also including names and work locations. The employer should have at least one person on site who is trained and qualified in First Aid. Occupational First Aiders are required to be trained and certified as competent at least once every 2 years by a registered training provider and it is up to the employer to ensure that this person remains qualified by sending them on the suitable courses. Any new employees should be made aware of the location of the first aid equipment, location of the emergency contact list, the First Aid personnel and the Eircode for the yard/location should be clearly displayed.

Review of Safety Training

Work practices and the effectiveness of any training provided should be monitored. Where unsafe work practices are detected and safety, health and welfare measures are not being followed by any employee or contractor, the work or activity should be stopped until corrective action has been taken and safety controls are fully complied with. In this regard, new or inexperienced employees may require extra supervision.

Insurance

Businesses which have employees are required by law to have employers' liability insurance. If an employee is injured or becomes ill as a result of the work, they can claim compensation from their employer if the employer is negligent. If it can be shown that the employer or horse owner was negligent this may result in an increase in future insurance premiums. There is the potential for an action by the enforcing authorities, for the potential temporary loss of a valued worker and harm or injury to the horse. It is therefore wise to implement measures to prevent or, at the least, limit the impact of an injury at work

Complying with health and safety legislation does not have to be difficult and it is made easier with good record keeping and internal processes in place. Employers who have taken reasonable steps to prevent accidents or harm to their employees are in a better position to deal with compensation claims. Proactive management of health and safety may result in more favourable terms or premiums when renewing insurance.

“WORK PRACTICES AND THE EFFECTIVENESS OF ANY TRAINING PROVIDED SHOULD BE MONITORED.WHEREUNSAFE WORK PRACTICESARE DETECTEDAND SAFETY, HEALTHAND WELFAREMEASURESARENOTBEINGFOLLOWED BYANYEMPLOYEE OR CONTRACTOR, THE WORK OR ACTIVITY SHOULD BE STOPPED UNTIL CORRECTIVE ACTION HAS BEEN TAKEN AND SAFETY CONTROLSARE FULLYCOMPLIED WITH.”

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Accident /Dangerous Occurrence Reporting

All accidents and dangerous occurrences in the workplace should be reported to the employer, who should record the details of the incident and fully investigate where warranted. An employer is obliged to report any accident that results in an employee missing 3 consecutive days at work (not including the day of the accident) to the Health and Safety Authority. The Safety, Health and Welfare at Work (General Application) (Amendment) (No. 3) Regulations 2016 set out the statutory responsibilities on employers in reporting of accidents and dangerous occurrences at workplaces.

Health and Safety Record Keeping

Keeping good health and safety records is important for the following reasons:

- It ensures key information is easily retrievable, and can be passed on from one person to another, ensuring consistency and continuity
- It ensures that the employer can demonstrate (internally and externally) compliance with its legal duties under health and safety law
- It makes the job of compliance Health & Safety easier if it is clear what needs to be done and when
- It enables senior managers to monitor health and safety performance
- It is a legal requirement, in many cases, to keep certain health and safety records available for inspection.

Examples of records which should be compiled and maintained (hard or soft copy)

Safety Statement

The Safety Statement should cover all aspects of the workplace and should be reviewed on a regular basis. The dates of review should be clearly displayed on the document.

Risk Assessments

The Risk Assessments should identify the working task hazards; determine the level of risk associated with each task; adopt control measures to eliminate the risk or, when this is not possible, reduce the risk to its lowest possible level.

Employee Training Records

All employee training should be clearly recorded to include dates of training, content covered, employee names. If certificates are issued by the training provider copies of these should be kept on file.

Internal or External Audits/Reports

Assessment of adherence to health and safety policy is best done in a formal and regular manner. Observations should be recorded with actionable items highlighted along with a designated person to be responsible for the follow up.

Accident/Incident Report and Investigation Forms

All accidents and dangerous occurrences should be recorded along with the key information points. While GDPR compliance is essential there needs to be a record filed for ongoing investigations and any subsequent claims or litigation which may ensue.

Minutes of Safety Meetings

Safety committees should comprise both management and employee representatives from multiple departments (in the case of larger enterprises). These committees should meet periodically, and minutes be taken from the proceedings along with actionable items and designated persons responsible for their follow up.

Safe Working Practices Instructions

Certain tasks benefit from clear written instructions on the processes and procedures involved. These should be shared with employees in the relevant roles. As with the Safety Statement it is good practice to review these instructions periodically to ensure that they are up to date and relevant to the tasks involved. They are a particularly helpful tool to employees who are newly assigned to those tasks.

Emergency Evacuations Plans

Larger sites should have emergency evacuation plans in place. These should be shared with all employees and be easily accessible in the event of an emergency. For this reason, it is best practice to have hard copies available in the workplace.

Chemical and Medication Sheets

Any chemicals and medications used in the workplace should have manufacturer sheets accompanying them. These sheets highlight any risks including risks of ingestion or contact.

Fire Drill Records

Fire drills should be conducted periodically, and all employees should be required to participate in them. The drills should be recorded with date, time, location and participants.

Summary

Effective management of workplace health and safety requires ongoing commitment and engagement. Developing effective systems includes:

- building a positive and inclusive safety culture;
- having a clear and accessible safety management plan which accurately reflects day-to-day practice;
- an understanding of and compliance with legal obligations and industry best practice;
- a comprehensive and objective set of risk assessments which are shared with all relevant parties who may be exposed to those risks;
- systems to ensure employees are physically and technically suited to work safely;
- employers and supervisors are appropriately trained to ensure health and safety standards are followed by employees and contractors and to take appropriate action when they are not; workloads and work allocation are appropriately delegated;
- suitable PPE, tack and equipment are provided and systems in place to ensure they are fit for purpose;
- buildings and machinery are maintained in a way which mitigates risk;
- have employees trained in First Aid and have First Aid kits available on site;
- have appropriate signage and emergency procedures in place; encourage ongoing team input so systems and procedures can be continually improved; and, finally,
- develop familiarity with the horses on the site so they can be handled and ridden in the safest manner possible.



SECTION 6

EMPLOYMENT GUIDE QUICK REFERENCE CHECKLIST FOR EMPLOYERS

EMPLOYMENT GUIDE FOR THE HORSE BREEDING AND RACING SECTORS

6

SECTION 6

EMPLOYMENT GUIDE

QUICK REFERENCE CHECKLIST

The Employment Decision		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Are you satisfied that the business case supports additional employment?	Have you examined existing employee productivity and efficiency? Is the existing workload sustainable? What rationale are you following--business growth and income, sustaining employee work/life balance?	
Have you examined the alternatives to direct employment?	Are contracting, worker sharing, or other options available?	

Recruitment		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Have you drawn up a Job Description and Person Specification?	The Job Description sets out the duties and responsibilities of the employee. The Person Specification describes the type of person required including his/her knowledge, skills, attributes and qualifications.	
Have you advertised the position?	<p><i>Intreo</i> Offices are now the first point of contact for jobseekers and are the gateway for unemployed learners seeking training, funding for training, and supports. There are several options for advertising employment opportunities. Make the position as attractive as possible by referencing training and other opportunities and conditions of employment.</p> <p>Advertise your open roles with “<i>Workinracing.ie</i>” on our website. This is a free service provided by HRI.</p> <p>A first stop for recruitment is often RACE-Racing Academy and Centre of Education.</p> <p>Ensure that the rate of pay offered is compliant with National Minimum Wage or Stablestaff collective agreement requirements.</p>	<p>Dept. of Employment Affairs and Social Protection Employment Services / <i>Intreo</i> Offices (www.welfare.ie)</p> <p>Recruitment agencies workinracing.ie racingacademy.ie</p> <p>Minimum wage rates available at workplacerelements.ie</p>
Have you assessed and short-listed applications and conducted interviews?	Where there is one position, it might be best to short-list 2/3 for interview. Have questions prepared in advance. There should be two persons or more on the interview panel. Keep notes of questions and answers.	

Starting Employment		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
If employee is a non-EEA ⁹ national does he/she have permission to work in the State?	The categories of person can legally work in Ireland are set out at the Section 2 Annex.	Department of Business, Enterprise and Innovation, Employment Permits Section, T: 1890 808090 or www.djei.ie
Have you issued employee with a written statement of terms of employment?	<p>Whilst a full contract of employment does not have to be in writing, an employer must first issue the basic terms of employment are required to be issued to the employee in the first 5 days commencing employment.</p> <p>Employees must be issued with a full written statement of terms and conditions relating to their employment within two months of commencing employment. Details of what a full statement / must include are found in Section 2.</p>	<p><i>Terms of Employment (Information) Acts:</i></p> <p>More information is available at: workplacerelations.ie</p> <p>Your provider of legal services will also be able to advise and assist.</p>
Have you registered as an Employer for PAYE/PRSI purposes?	Revenue Form PREM Reg should be used by those who are already registered for their own Income Tax, but who now need to register as an employer for PAYE/PRSI purposes. This must be done as soon as salaries are first paid.	<p><i>Form PREM Reg</i> is available at www.revenue.ie</p> <p>Your provider of accountancy services will also be able to advise and assist.</p>
Has the employee given you his/her PPS No. (Personal and Public Service Number)?	You will need this in order to advise the Tax Office that the employee has commenced work	See Starting Work and Tax information on www.revenue.ie

⁹ EEA is the European Economic Area comprising Member States of the EU and Iceland, Norway and Liechtenstein

Starting Employment		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Have you advised the employee to register for tax and provided them with your Tax Registration Number?	Your employee is responsible for registering for tax in the State. Once your employee has registered their job on the Jobs and Pensions service, you will be able to request a Revenue Payroll Notification (RPN). You can then tax your employee on a cumulative basis or a week 1 or month 1 basis, depending on what the RPN instructs.	Starting your first job will guide your employee through what they must do to register for tax.
Have you arranged to operate the PAYE system of deductions and to retain associated records?	Employers must operate the PAYE system of deductions at source of income tax, PRSI and the Universal Social Charge from the salaries of employees and retain records for a period of 6 years.	See the <i>Revenue Guide Starting a Business-The basic requirements for Tax purposes</i> available at revenue.ie See the <i>Employers' Guide to PRSI</i> available at welfare.ie Your provider of accountancy services will also be able to advise and assist.
Have you secured the necessary insurance?	Employer Liability insurance	Your provider of accountancy services and/or insurance broker will be able to advise and assist.
Are you engaging an employee through an Employment Agency?	You should ensure that the Employment Agency is licensed by the Department of Business, Enterprise and Innovation. All temporary agency workers hired out to you must have equal treatment with workers directly employed by you. Details of what 'equal treatment' must include are found in Section 2.	A schedule of licensed employment agencies and additional information on agency workers are available at workplacerelations.ie .
Have you given the employee a notice in writing setting out dismissal procedures?	Employers are required, not later than 28 days after commencement of employment, to give the employee a notice in writing setting out the procedure to be followed before and for the purpose of dismissing the employee. This is normally part of the written statement of terms and conditions/ 'contract'.	<i>Unfair Dismissals Acts:</i> More information available at workplacerelations.ie Your provider of legal services will also be able to advise and assist.

Starting Employment		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Are the hourly rates of pay not less than the statutory minimum rates prescribed by the National Minimum Wage Acts or by the Stablestaff /IRTA collective agreement?	The National Minimum Wage Acts prescribe the statutory minimum hourly rates of pay in force at any time. Minimum rates for stablestaff are contained in the Stablestaff / IRTA collective agreements	The statutory hourly rates of pay are available at workplacelrelations.ie
Have you arranged to issue the employee with a 'written statement of pay and deductions?' -- a payslip?	Such statements are usually provided on each pay day by means of a payslip setting out gross pay, deductions and net pay.	Payroll software will generate payslips. <i>Payment of Wages Act:</i> More information is available at workplacelrelations.ie Your provider of accountancy services will also be able to advise and assist.
Have you decided to pay an additional Sunday allowance or to give time in lieu for Sunday working?	If not already included in the rate of pay, employees are generally entitled to an additional allowance payment for Sunday working, or paid time off in lieu.	Your provider of accountancy services will also be able to assist and advise as such records are required for payroll preparation.
Have you decided to comply with the specific statutory requirements where you propose to employ young persons or children?	In general, the employment of children under the age of 16 is prohibited. However, employers may employ 14- and 15-year olds on light work during school holidays, part-time during school term or as part of an approved work experience or education programme. Specific maximum working hours and rest breaks are laid down for persons under 18 years of age. Employers must also keep specified records for those workers aged under 18. A range of all the details of the protection in employment of Young Persons are found in Section 3.	Information on the employment of Children and Young Persons is available at workplacelrelations.ie

66 Starting Employment		
EMPLOYMENT GUIDE FOR THE HORSE BREEDING AND RACING SECTORS		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Employment of “Young Persons” and “Vetting”	The National Vetting Bureau (Children and Vulnerable Persons) Acts make it mandatory for people employing or working with children or vulnerable adults to be vetted by the Garda Síochána National Vetting Bureau. A “relevant organisation” is one that employs or permits a person to carry out work or activities which mainly consist of them having access to, or contact with, children or vulnerable adults. The IHRB as Racing regulator have made a condition of license renewal for Trainers to be vetted.	Child welfare and protection policy is based on a legal framework provided primarily by the Child Care Act 1991 and the Children First Act 2015. The policy and practice that applies in this area is outlined in the Department of Children and Youth Affairs publication <i>“Children First: National Guidance for the Protection and Welfare of Children”</i> updated in 2017.
Have you provided the employee with access to some form of pension arrangement?	If employers do not operate an occupational pension scheme or if certain restrictions apply to their scheme, they must ensure that their employees have access to at least one Standard PRSA (Personal Retirement Savings Account).	The Pensions Authority can provide further information. See also the Authority’s PRSA Guide for Consumers and Employers available at pensionsauthority.ie/en/ Your provider of accountancy services will also be able to advise and assist.

Maintaining the Employment Relationship		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Have you decided how to ensure that the employee gets rest breaks each day, and between days, and each week?	<p>Employees should not on average work more than 48 hours each week.</p> <p>The law provides for a daily rest period of 11 consecutive hours per 24 hours, a weekly rest period of 24 consecutive hours preceded by a daily rest period of 11 hours, and 15 minute and 30-minute breaks after 4.5 hours and 6 hours of work respectively.</p>	<p>Available at workplacerelements.ie</p>
Have you decided how to record working hours (including start and finish times) and for signature by you and the employee of those hours?	Where electronic clocking systems are not available, employers should use the OWT 1 Form.	<p>OWT 1 Form available at Appendix 4 and for download at workplacerelements.ie</p> <p>Your provider of accountancy services will also be able to assist and advise as such records are required for payroll preparation.</p>
Is a schedule of work in place?	The standard schedule of work is a list or plan that shows when employees will be on duty. It requires planning, consultation and commitment to make it work. And it should accommodate breaks and rest periods and other working time statutory requirements. Schedules should be retained as part of employment records in general.	
Have you decided the method(s) for granting leave/ holidays to the employee and for recording same?	<p>Most full-time employees are entitled to four weeks paid annual leave per leave year. Depending on cumulative volume of worked, employees' holiday entitlements should be calculated by one of the following methods:</p> <ul style="list-style-type: none"> - ** 4 working weeks in a leave year in which the employee works at least 1,365 hours (unless it is a leave year in which he or she changes employment) ** 1/3 of a working week per calendar month that the employee works at least 117 hours ** 8% of the hours an employee works in a leave year (but subject to a maximum of 4 working weeks). 	<p><i>Information on Holidays and Public Holidays</i> and on the <i>Organisation of Working Time Act, 1997</i>: More information is available at</p> <p>Your provider of accountancy services will also be able to assist and advise as such records are required for payroll preparation.</p>

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Maintaining the Employment Relationship		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Are you aware of the entitlements relating to protective leave?	Employers are obliged to allow employees (who meet relevant qualifying criteria, if any) to avail of certain statutory protective leaves, such as maternity leave, health and safety leave, parental leave, adoptive leave and carer's leave. There is specific legislation setting down the rules for each entitlement.	Information regarding maternity, adoptive, parental and carers' leave benefits is available from the Department of Employment Affairs and Social Protection (www.welfare.ie).
Have you made arrangements for granting Public Holiday entitlements to the employee? (viz. paid day off, extra day's pay, extra day's annual leave)	There are nine public holidays each year. Full-time workers have immediate entitlement to benefit for public holidays, and part-time workers have entitlement to benefit when they have worked a total of 40 hours in the previous 5 weeks. When a person works on a public holiday they are entitled to be paid for the day in accordance with their agreed rates, and they also have in addition an entitlement to benefit for the public holiday.	<i>Information on Holidays and Public Holidays</i> and on the <i>Organisation of Working Time Act, 1997: More information is available at</i> workplacerelations.ie Your provider of accountancy services will also be able to assist and advise as such records are required for payroll preparation.
Have you provided workplace facilities for employees?	These would include canteen facilities (tea/coffee making area), a drying room and gender specific shower and toilet facilities	
Have you decided to regularly measure the performance of employees?	While communication and feedback will occur frequently on an informal basis, it is important that structured reviews are put in place to agree job goals and standards, monitor performance against the expected standards and agree actions (including training) to address issues.	
Have you arranged for consultations with staff on safety, health and welfare issues?	Employers must consult employees about health and safety in the workplace, consider any issues raised and take appropriate action. It is recommended that a safety, health and welfare consultation meeting with employees should take place at least once every 3 months.	

Maintaining the Employment Relationship		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Have systems for communication and consultation been put in place?	Good communications will underpin staff motivation and productivity. This includes some or all of meetings, feedback sessions, notice boards, mission statements, diaries and information notices together with the delegation of responsibility and involvement in decision making, all help to build good working relationships.	
Have you decided for regular employee training and mentoring?	<p>Training will enhance productivity, efficiency, employee motivation and attitudes.</p> <p>Mentoring can support employee retention, enhance professional development, build a positive culture and improve communications and knowledge.</p>	“Work in Racing” from HRI offers free advice on training and career development for staff employed in the equine sector, including financial support for development undertaken outside of the employment.
Have you made arrangements to maintain and retain all records relating to the employment relationship?	<p>In addition to statutory employment, taxation, health and safety and welfare records, the employer should also draw up and retain policies, operating procedures (including safety SOPs) and other relevant documentation.</p> <p>The full set of records required where a WRC Inspection arises is at Section3; Annex.</p>	Your provider of accountancy services will be able to assist and advise in relation to statutory records. In many cases, the provider of accountancy services will retain the relevant records.

Ending the Employment Relationship		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
What do you need to do if you propose to end the employment relationship?	Employment contracts can be terminated in a variety of ways, such as dismissal, redundancy, or insolvency (see below). Employers should be familiar with the rules relating to termination of employment in any of these contexts.	Your provider of legal services will also be able to advise and assist.
Have you given appropriate notice to the employee of termination?	Employees in continuous service with the same employer for at least 13 weeks are entitled to a minimum period of notice depending on the length of service. The full detail is in Section 4. Employees can, however, waive their right to notice or accept payment in lieu of notice. An employer has the right to terminate employment without notice due to gross misconduct of the employee, subject to following fair procedures as laid out in the disciplinary policy.	<i>Minimum Notice and Terms of Employment Acts</i> More information is available at workplacerelations.ie Your provider of legal services will also be able to advise and assist.
Are you proposing to make the employee redundant?	Redundancy arises where, for example, the employer has ceased to carry out business, an employee's job ceases to exist, work of a nature has ceased, a permanent reduction in the numbers employed has, or is due to occur, or a bona fide reorganisation is proposed. Employees with 104 weeks' continuous service who are made redundant are entitled to a redundancy lump-sum payment amounting to 2 weeks' pay for each year of service, plus a bonus week's pay, each subject to a statutory ceiling (€600 at 2019). The employer must pay the lump sum direct to the employee.	Information on redundancy claims is available from the Department of Employment Affairs and Social Protection (T: 1890 800699 or welfare.ie). A Redundancy Calculator is also available on that website. Your provider of accountancy services will also be able to assist and advise.

Maintaining the Employment Relationship		
REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Are you proposing to dismiss the employee?	<p>In order to justify a dismissal, an employer must show that it resulted from the capability, competence or qualifications of the employee, or the employee's conduct, or the redundancy of the employee, or that there were other substantial grounds for dismissal. The complete list of where Dismissals are unfair is at the Section 4 Annex.</p> <p>Best practice requires an employer who has dismissed an employee to confirm the dismissal in writing and must, if asked, furnish within 14 days the reason for the dismissal.</p>	<p><i>Unfair Dismissals Acts</i></p> <p>More information is available at workplacerelations.ie</p> <p>Your provider of legal services will also be able to advise and assist.</p>
What do I need to give the employee on termination of employment?	<p>You must give the employee pay that the employee is owed for work done</p> <p>A final Pay slip showing gross pay and any deductions.</p> <p>Payment for annual leave which the employee has earned but not taken.</p> <p>Payment instead of notice if the employee has not worked his/her notice period.</p> <p>Information about what happens to the employee's pension scheme, if applicable.</p>	<p>Further information is available at www.revenue.ie and www.welfare.ie.</p> <p>Your provider of accountancy services will also be able to assist and advise.</p>

Health and Safety in Stable yards

Working with Thoroughbreds: Prioritising Safety and Managing Risk

REQUIREMENT	DETAILS	FURTHER INFO AND ASSISTANCE
Have you completed a health and safety Risk Assessment and prepared a Safety Statement?	<p>Risk Assessments and an associated Safety Statement is required.</p> <p>The content of Safety Statement and Risk Assessments is covered in Section 5.</p>	On-line advice for Risk Assessment and a template for a Safety Statement is available at www.hsa.ie .
Have you put safe operating procedures (SOPs) in place for tasks risk assessed as being hazardous?	These outline the specific order of tasks to be completed. Where required, SOPs should be posted close to where the work is undertaken.	
Have you provided information, instruction and training to the employee?	This should include instruction re the site Safety Statement and SOPs, site evacuation procedures, reporting illness at work, and reporting accident or dangerous occurrences at work.	
Have you issued protective clothing and equipment to the employee?	The wearing of approved safety equipment is a requirement of the Rules of Racing (IHRB).	Regulation R10 (Appendix C) of the Rules of Racing provides regulations and specifications for riders' approved safety equipment.



APPENDICES

APPENDIX 1

Sample written statement
of 'core' terms of employment
The "5 Day" requirement

APPENDIX 2

Code of Practice on Grievance
and Disciplinary Procedures

APPENDIX 3

Extract: Code of Practice on
Compensatory Rest Periods
"3. General principles of and arrangements
for equivalent compensatory rest and
appropriate protection"

APPENDIX 4

Form OWT 1 Equivalent
Sample Organisation of Working Time Act Form
Single Employee / Record of hours worked

APPENDIX 5

Sample Terms of Employment

APPENDIX 1

SAMPLE WRITTEN STATEMENT OF 'CORE' TERMS OF EMPLOYMENT - "5 DAY" REQUIREMENT

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 and 2001 SAMPLE WRITTEN STATEMENT OF 'CORE' TERMS OF EMPLOYMENT

This form may be used by employers for the purposes of providing an employee with a written statement of particulars of the terms of employment as required by the above Acts and the Employment (Miscellaneous Provisions) Act 2018.

[Required from the 4 March 2019]

THIS STATEMENT MUST BE GIVEN WITHIN 5 DAYS AFTER STARTING WORK

IMPORTANT: Please refer to explanatory notes attached before completing the form.

This statement applies to

- (a) FULLNAMEOFEMPLOYEE _____
- (b) FULL NAME OF EMPLOYER (See Note 1) _____
- (c) ADDRESSOFEMPLOYER (See Note 2) _____
- (d) IF TEMPORARY CONTRACT (expected duration of temporary contract)

- (e) IF FIXED TERM CONTRACT (date on which contract expires)

- (f) RATE OF RENUMERATION (See Note 3) _____
- (g) MINIMUM WAGE PAY REFERENCE PERIOD (weekly, monthly or otherwise) period used to calculate hourly rate of pay or the National Minimum Wage Act 2000) (See Note 3)

The employee may, under Section 23 of the National Minimum Wage Act, 2000, request from the employer a written statement of the employee's average hourly rate of pay for any pay reference period falling within the previous 12 months

- (h) APPLICABLE EMPLOYMENT REGULATION ORDER OR SECTORAL EMPLOYMENT ORDER

- (i) HOURS OF WORK (including overtime) (See Note 4)

Per normal working day _____

Per normal working week _____

Signed: _____ Date: _____

(Proprietor/Manager/Company Secretary/Personnel Manager)

.....

NOTE 1: NAME OF EMPLOYER – Employers must state their full and correct name. In the case of a limited company, the name of the company as registered with the Companies Registration Office should be given.

NOTE 2: ADDRESS OF EMPLOYER – A number of options are available under this heading. The intention is to ensure that the employee is given the full and accurate address of the employer. The options are as follows:

- The address in the State.
- The address of the principal place of the relevant business in the State (this could be appropriate in the case of a business which has a number of locations).
- The address of the registered office, i.e. address of the company as registered with the Companies Registration Office (within the meaning of the Companies Act 2014)

NOTE 3: RATE OF REMUNERATION/MEANS OF CALCULATING REMUNERATION – In addition to basic pay, this heading covers any other aspects of remuneration such as Sunday premium, bonus, commission, productivity incentives, etc. (If the employer does not give details of the rate of remuneration, he/she must give details of the method of calculating the remuneration). If appropriate, it could be stated that the rate is as set out in a specified Employment Regulation Order or Sectoral Employment Agreement.

The following payments are regarded as wages:

- Normal basic pay (as well as any overtime)
- Sunday premium
- Shift allowances or other similar payments
- Any fee, bonus or commission
- Any holiday, sick or maternity pay
- Any other return of payment for work (whether made under the contract of employment or otherwise), and
- Any sum payable to an employee in lieu of notice of termination or employment

Sunday Premium: If not already included in the rate of pay, an employee is entitled to paid time off in lieu or a premium payment for Sunday working. If Sunday premium is already included in the rate of pay the amount attributable to Sunday premium should be clearly specified.

An employee is entitled to the premium payment for Sunday working payable to a comparable employee in a collective agreement in force in a similar industry or sector. This means that the Sunday premium, if not already paid, will be equivalent to the closest applicable collective agreement which applies to the same or similar work under similar circumstances and which provides for a Sunday premium.

The premium can be in the form of:

- An allowance
- Increased rate of pay
- Paid time off
- Combination of the above.

The employer must indicate the pay reference period for the purposes of the National Minimum Wage Act, 2000. Also, the employer must state that the employee may request from the employer a written statement of the employee's average hourly rate of pay for any reference period falling within the previous 12 months as provided in Section 23 of the Organisation of Working Time Act, 2000.

NOTE 4: THE NUMBER OF HOURS WHICH THE EMPLOYER REASONABLY EXPECTS THE EMPLOYEE TO WORK -

- (i) Per normal working day, and
- (ii) Per normal working week

APPENDIX 2

CODE OF PRACTICE ON GRIEVANCE AND DISCIPLINARY PROCEDURES

1. INTRODUCTION

1. Section 42 of the Industrial Relations Act 1990 provides for the preparation of draft Codes of Practice by the Labour Relations Commission for submission to the Minister, and for the making by him of an order declaring that a draft Code of Practice received by him under section 42 and scheduled to the order shall be a Code of Practice for the purposes of the said Act.
2. In May 1999 the Minister for Enterprise, Trade and Employment requested the Commission under Section 42 of the Industrial Relations Act 1990 to amend the Code of Practice on Disciplinary Procedures (S.I. No. 117 of 1996) to take account of the recommendations on Individual Representation contained in the Report of the High Level Group on Trade Union Recognition. The High Level Group, involving the Departments of the Taoiseach, Finance and Enterprise, Trade and Employment, the Irish Congress of Trade Unions (ICTU), the Irish Business and Employers Confederation (IBEC) and IDA-Ireland, was established under paragraph 9.22 of Partnership 2000 for Inclusion Employment and Competitiveness to consider proposals submitted by ICTU on the Recognition of Unions and the Right to Bargain and to take account of European developments and the detailed position of IBEC on the impact of the ICTU proposals.
3. When preparing and agreeing this Code of Practice the Commission consulted with the Department of Enterprise, Trade and Employment, ICTU, IBEC, the Employment Appeals Tribunal and the Health and Safety Authority and took account of the views expressed to the maximum extent possible.
4. The main purpose of this Code of Practice is to provide guidance to employers, employees and their representatives on the general principles which apply in the operation of grievance and disciplinary procedures.

2. GENERAL

1. This Code of Practice contains general guidelines on the application of grievance and disciplinary procedures and the promotion of best practice in giving effect to such procedures. While the Code outlines the principles of fair procedures for employers and employees generally, it is of particular relevance to situations of individual representation.
2. While arrangements for handling discipline and grievance issues vary considerably from employment to employment depending on a wide variety of factors including the terms of contracts of employment, locally agreed procedures, industry agreements and whether trade unions are recognised for bargaining purposes, the principles and procedures of this Code of Practice should apply unless alternative agreed procedures exist in the workplace which conform to its general provisions for dealing with grievance and disciplinary issues.

3. IMPORTANCE OF PROCEDURES

1. Procedures are necessary to ensure both that while discipline is maintained in the workplace by applying disciplinary measures in a fair and consistent manner, grievances are handled in accordance with the principles of natural justice and fairness. Apart from considerations of equity and natural justice, the maintenance of a good industrial relations atmosphere in the workplace requires that acceptable fair procedures are in place and observed.
2. Such procedures serve a dual purpose in that they provide a framework which enables management to maintain satisfactory standards and employees to have access to procedures whereby alleged failures to comply with these standards may be fairly and sensitively addressed. It is important that procedures of this kind exist and that the purpose, function and terms of such procedures are clearly understood by all concerned.
3. In the interest of good industrial relations, grievance and disciplinary procedures should be in writing and presented in a format and language that is easily understood. Copies of the procedures should be given to all employees at the commencement of employment and should be included in employee programmes of induction and refresher training and, trade union programmes of employee representative training. All members of management, including supervisory personnel and all employee representatives should be fully aware of such procedures and adhere to their terms.

4. GENERAL PRINCIPLES

1. The essential elements of any procedure for dealing with grievance and disciplinary issues are that they be rational and fair, that the basis for disciplinary action is clear, that the range of penalties that can be imposed is well defined and that an internal appeal mechanism is available.

-
2. Procedures should be reviewed and up-dated periodically so that they are consistent with changed circumstances in the workplace, developments in employment legislation and case law, and good practice generally.
 3. Good practice entails a number of stages in discipline and grievance handling. These include raising the issue with the immediate manager in the first instance. If not resolved, matters are then progressed through a number of steps involving more senior management, HR/IR staff, employee representation, as appropriate, and referral to a third party, either internal or external, in accordance with any locally agreed arrangements.
 4. For the purposes of this Code of Practice, "employee representative" includes a colleague of the employee's choice and a registered trade union but not any other person or body unconnected with the enterprise.
 5. The basis of the representation of employees in matters affecting their rights has been addressed in legislation, including the Protection of Employment Act 1977; the European Communities (Safeguarding of Employees Rights on Transfer of Undertakings) Regulations, 1980; Safety, Health and Welfare at Work Act 1989; Transnational Information and Consultation of Employees Act 1996; and the Organisation of Working Time Act 1997. Together with the case law derived from the legislation governing unfair dismissals and other aspects of employment protection, this corpus of law sets out the proper standards to be applied to the handling of grievances, discipline and matters detrimental to the rights of individual employees.
 6. The procedures for dealing with such issues reflecting the varying circumstances of enterprises/organisations, must comply with the general principles of natural justice and fair procedures which include:
 - That employee grievances are fairly examined and processed
 - That details of any allegations or complaints are put to the employee concerned
 - That the employee concerned is given the opportunity to respond fully to any such allegations or complaints
 - That the employee concerned is given the opportunity to avail of the right to be represented during the procedure
 - That the employee concerned has the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, the employee and any other relevant or appropriate evidence, factors, circumstances.
 7. These principles may require that the allegations or complaints be set out in writing, that the source of the allegations or complaint be given or that the employee concerned be allowed to confront or question witnesses.
 8. As a general rule, an attempt should be made to resolve grievance and disciplinary issues between the employee concerned and his or her immediate manager or supervisor. This could be done on an informal or private basis.
 9. The consequences of a departure from the rules and employment requirements of the enterprise/organisation should be clearly set out in procedures, particularly in respect of breaches of discipline which if proved would warrant suspension or dismissal.
 10. Disciplinary action may include:
 - An oral warning
 - A written warning
 - A final written warning
 - Suspension without pay
 - Transfer to another task, or section of the enterprise
 - Demotion
 - Some other appropriate disciplinary action short of dismissal
 - Dismissal.
 11. Generally, the steps in the procedure will be progressive, for example, an oral warning, a written warning, a final written warning, and dismissal. However, there may be instances where more serious action, including dismissal, is warranted at an earlier stage. In such instances the procedures set out at paragraph 6 hereof should be complied with.
 12. An employee may be suspended on full pay pending the outcome of an investigation into an alleged breach of discipline.
 13. Procedures should set out clearly the different levels in the enterprise or organisation at which the various stages of the procedures will be applied.
 14. Warnings should be removed from an employee's record after a specified period and the employee advised accordingly. The operation of a good grievance and disciplinary procedure requires the maintenance of adequate records. As already stated, it also requires that all members of management, including supervisory personnel and all employees and their representatives be familiar with and adhere to their terms.

.....

S.I. No. 146 of 2000

**Industrial Relations Act 1990 Code of Practice on Grievance
and Disciplinary Procedures (Declaration) Order 2000**

WHEREAS the Labour Relations Commission has prepared under subsection (1) of section 42 of the Industrial Relations Act 1990 (No. 19 of 1990), a draft Code of Practice on grievance and disciplinary procedures and which code is proposed to replace the code set out in the Schedule to the Industrial Relations Act 1990, Code of Practice on Disciplinary Procedures (Declaration) Order 1996 (S.I. No 117 of 1996);

AND WHEREAS the Labour Relations Commission has complied with subsection (2) of that section and has submitted the draft Code of Practice to the Minister for Enterprise, Trade and Employment;

NOW THEREFORE, I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by subsections (3) and (6) of that section, the Labour (Transfer of Departmental Administration and Ministerial Functions) Order 1993 (S. 1. No. 18 of 1993), and the Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order 1997 (S.I. No. 305 of 1997), and after consultation with the Commission, hereby order as follows:

1. This Order may be cited as the Industrial Relations Act 1990 Code of Practice on Grievance and Disciplinary Procedures (Declaration) Order 2000.
2. It is hereby declared that the Code of Practice set out in the Schedule to this Order shall be a Code of Practice for the purposes of the Industrial Relations Act 1990 (No. 19 of 1990).
3. The Code of Practice set out in the Schedule to the Industrial Relations Act 1990, Code of Practice on Disciplinary Procedures (Declaration) Order 1996 (S.I. No 117 of 1996), is revoked.

Given under my Official Seal,

This 26th day of May 2000

Mary Harney

Minister for Enterprise, Trade and Employment

Explanatory Note

This note is not part of the Instrument and does not purport to be a legal interpretation. The effect of this Order is to declare that the draft Code of Practice set out in the Schedule to this Order is a Code of Practice for the purposes of the Industrial Relations Act 1990.

APPENDIX 3

EXTRACT: CODE OF PRACTICE ON COMPENSATORY REST PERIODS

3. GENERAL PRINCIPLES OF AND ARRANGEMENTS FOR EQUIVALENT COMPENSATORY REST AND APPROPRIATE PROTECTION

GENERAL

1. Appropriate rest breaks from work are vital to the health and safety of workers and are of importance in the efficient and effective operation of the workplace. While the Organisation of Working Time Act 1997 specifies minimum rest breaks employers may provide longer breaks.

COMPENSATORY REST TIMESCALE (SECTION 6(1) AND 6(2) OF THE ACT)

2. Exempted employees who miss out on their statutory rest entitlements should receive equivalent compensatory rest as soon as possible after the statutory rest has been missed out on. It is most important for employers to make rest time available to employees to allow them to recuperate from long periods of work without adequate rest. The Organisation of Working Time Act 1997 and the EU Directive on Working Time do not specify any timeframes within which compensatory rest must be made available. However, when determining when compensatory rest is to be given, an employer should always have regard to the circumstances pertaining in the individual place of employment and to the health and safety requirements for adequate rest. In this context, it is important that the compensatory rest for rest breaks at work and for daily rest breaks, in particular, be provided as soon as possible and, generally, in an adjacent time frame.
3. While it is not possible to provide extensive examples of the various situations that may arise in the many diverse employments, the following four examples may typify some work situations which may give rise to a need to grant compensatory rest.

EXAMPLE 1

An exempted employee works Monday to Friday 9a.m. to 5.30p.m. He/she works in an industry which cannot be interrupted on technical grounds (an exempted activity)*. For 2 weeks per month that employee is "on call" for maintenance work. On Wednesday night he/she is called out to perform emergency repair work. The call-out commences at 8.30p.m. and finishes at 11.30p.m. The employee's entitlement to 11 hours consecutive rest is interrupted. Prior to the call-out the employee had received 3 hours rest and after the call-out he/she received 9.5 hours rest. In total the employee received 12.5 hours rest, therefore no further entitlement to rest arises as an exemption applies (see sections 2(7)(I) and 2(7)(II) of this Code).

If no exemption applies then the employee is entitled to the full 11 consecutive hours rest from the end of the call-out.

* See Annex to this Code - General Exemptions Regulations (S.I. No 21 of 1998)

EXAMPLE 2

Under an exemption provided for in a collective agreement approved of by the Labour Court an employee is permitted to work 14 consecutive 8 hour days. In those circumstances the employee, in respect of that period, has a minimum entitlement of 2 periods of 24 hours compensatory rest plus 2 periods of 11 consecutive hours daily rest. The employee is given 3 consecutive periods of 24 hours off immediately after the 14 consecutive working days. This goes beyond the requirement to give 2 periods of 24 hours compensatory rest preceded by the relevant daily rest requirement and is, therefore, acceptable.

EXAMPLE 3

An employee is entitled to a break of at least 15 minutes after working for 4 1/2 hours. If an exemption applies the taking of the break may be delayed but compensatory rest should be provided. In this circumstance the employee is given a later break of 15 minutes or breaks totaling 15 minutes by way of compensatory rest before the end of the day. No further compensatory rest is required.

EXAMPLE 4

An exempted employee works a three cycle rotating shift pattern:

Week 1 8.00 a.m. - 4.00 p.m.

Week 2 4.00 p.m. - 12.00 a.m.

Week 3 12.00 a.m. - 8.00 a.m.

In a 5 over 7 day roster no changeover provides for less than 48 hours rest. Therefore, no entitlement to compensatory rest arises. In a 6 over 7 day roster, however, the changeover between week 2 and week 3 provides only for 24 hours rest. In this circumstance, the exempted employee is entitled to compensatory rest of 11 consecutive hours.

GENERAL COMMENTS ON COMPENSATORY REST

The 11 consecutive hour interval between shifts is required for reasons of health and safety to ensure that employees have a minimum period of sleep. From a health and safety point of view, it is dangerous for employees to miss out on a minimum number of hours sleep and then report for work. Therefore, when any variation of the 11 consecutive hours statutory rest is permitted under the Act, the employer should ensure that the health and safety requirements for adequate compensatory rest are sufficient in the circumstances pertaining in that employment. This is equally applicable to the weekly rest provision.

Consideration should also be given to such issues as distance from home and employment in order to ensure that adequate rest is obtained.

NOTE

Typically, in industry call-out arrangements provide for 8 hours consecutive rest before returning to work. Such arrangements will, where an exemption is applicable, continue to be acceptable provided that the compensatory rest requirements are fulfilled.

Where variation of the weekly statutory rest periods is permitted under the 1997 Act the employer concerned should have regard to the circumstances pertaining in that employment and to the health and safety requirements for adequate rest for his/her employees.

APPROPRIATE PROTECTION

1. If for reasons that can be objectively justified, it is not possible for an employer to ensure that an employee has available to himself or herself the equivalent rest period or break set out in section 6(2) of the 1997 Act, the employer must make such arrangements as respects the employee's conditions of employment as will compensate the employee.

While neither "arrangements as respects the employee's conditions of employment as will compensate the employee" nor "appropriate protection" are defined in, respectively, the Act and the Directive the Act specifies that these concepts do not include:

- i) the granting of monetary compensation to the employee, or
- ii) the provision of any other material benefit to the employee, other than the provision of such a benefit as will improve the physical conditions under which the employee works or the amenities or services available to the employee while he or she is at work.

A commonsense approach should be adopted by employers and employees in such situations which takes account of the circumstances existing in the employment and has regard to the safety, health and well-being of employees. It would be desirable that employers and employees and/or their representatives agree appropriate protection measures as respects an employee's conditions of employment.

While it is not feasible to define such appropriate protection/conditions of employment measures, the concept might include measures which provide for, in addition to normal health and safety requirements:

- i) enhanced environmental conditions to accommodate regular long periods of attendance at work,
- ii) refreshment facilities, recreational and reading material
- ii) appropriate facilities/amenities such as television, radio and music
- iv) alleviating monotonous work or isolation
- v) transport to and from work where appropriate.

NOTE

The measures listed are not exhaustive and are for illustrative purposes only. Employers should consider other measures which might be more relevant to their circumstances.



Sample Organisation of Working Time Act Form – Single Employee

(For Single Employee – Record for one month)

Employer Name: _____

Employer Registration Number:

--	--	--	--	--	--	--	--	--	--

Employee Details
Surname _____
Forename _____
PPS No

--	--	--	--	--	--	--	--	--	--

Week starts on (please specify day); _____

Statutory Entitlement under the OMTA.

- Employees are entitled to;
- A daily rest period of 11 consecutive hours per 24 hours A weekly rest period of 24 consecutive hours per seven days, following a daily rest period
 - A 15-minute break if working 4.5 hours.
 - A 30-minute break if working six hours.

Some industries are covered by Registered Employment Agreements (REA's) and Employment Regulation Orders (ERO's), which may contain different regulations regarding rest breaks. Employers should ensure that the appropriate rest breaks are granted.

Total hours worked should exclude all rest breaks (paid and unpaid)

Week 1	Date:	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Total Weekly Hours
	Please Specify Day								
	Start time								
	Finish time								
	Total Hours worked								
Week 2	Date:	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Total Weekly Hours
	Start time								
	Finish time								
	Total Hours worked								
Week 3	Date:	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Total Weekly Hours
	Start time								
	Finish time								
	Total Hours worked								
Week 4	Date:	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Total Weekly Hours
	Start time								
	Finish time								
	Total Hours worked								
Week 5	Date:	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Total Weekly Hours
	Start time								
	Finish time								
	Total Hours worked								

I declare that the above information in relation to daily and weekly hours worked is correct and that I have received my statutory rest entitlements: (please tick)

☐

Employee Signature: _____

Date: _____

Employer Signature: _____

APPENDIX 4
FORM OWT 1 EQUIVALENT
 SAMPLE ORGANISATION OF WORKING TIME ACT FORM SINGLE EMPLOYEE /
 RECORD OF HOURS WORKED

APPENDIX 5

TERMS OF EMPLOYMENT (INFORMATION) ACTS, 1994 to 2014

SAME WRITTEN STATEMENT OF TERMS OF EMPLOYMENT

This form may be used by employers for the purposes of providing an employee with a written statement of particulars of the terms of employment as required by the above Act.

IMPORTANT: Please refer to explanatory notes attached before completing the form.

This statement applies to (NAME OF EMPLOYEE) _____

(a) NAME OF EMPLOYER _____ (See Note 1)

(b) ADDRESS OF EMPLOYER _____ (See Note 2)

(c) PLACE OF WORK _____ (See Note 3)

(d) JOB TITLE OR NATURE OF WORK _____ (See Note 4)

(e) DATE OF COMMENCEMENT OF EMPLOYMENT _____

(f) (i) IF TEMPORARY CONTRACT (expected duration of temporary contract)

(ii) IF FIXED TERM CONTRACT (date on which contract expires)

(iii) APPLICABLE EMPLOYMENT REGULATION ORDER OR SECTORAL EMPLOYMENT ORDER

A COPY MAY BE OBTAINED FROM _____

(If the space provided under any of the headings is insufficient, employers may include the relevant details in an Appendix to this statement)

(g) RATE OF REMUNERATION _____ (See Notes 5 & 6)

.....

MINIMUM WAGE PAY REFERENCE PERIOD

(period used to calculate hourly rate of pay or the National Minimum Wage Act 2000 & 2015) (See Note 6)

(g) The employee may, under Section 23 of the National Minimum Wage Act, 2000, request from the employer a written statement of the employee's average hourly rate of pay for any pay reference period falling within the previous 12 months, as provided in that section.

(h) PAY INTERVALS _____ (weekly, monthly or otherwise)

(i) HOURS OF WORK (including overtime) (See Note 7)

Normal start time _____

Normal finish time _____

Note _____ for _____ Employers:

Statutory Rest Periods under the Organisation of Working Time Act, 1997:

Employees are entitled to:

- A daily rest period of 11 consecutive hours per 24 hours
- A weekly rest period of 24 consecutive hours per 7 days, following a daily rest period
- A 15-minute break if working 4.5 hours
- A 30-minute break if working 6 hours. (which may include the first break) Payment for breaks is not a statutory entitlement.

Note for Employers: Rest Period Not Received (See Note 14)

Outline procedure for employee to notify employer in writing that he/she has not received their entitlement as outlined above. This notification must be made within one week of an employee not availing of their entitlement. (See S.I. 473 of 2001 available on the Irish Statute Book website: www.irishstatutebook.ie)

(j) PAID LEAVE (See Note 8)

Annual Leave Entitlement (e.g. days) _____

Public Holiday Entitlement _____

Other (if any) _____

(k) (i) INCAPACITY FOR WORK/SICKNESS/SICK PAY (See Note 9)

Note for Employers: Outline the procedures in place for absence reporting / sick pay-scheme (if any)

(ii) PENSION AND PENSION SCHEMES (See Note 10)

(Employers are required by law to provide access to a PRSA if no Occupational Pension Scheme in place).

(l) PERIOD OF NOTICE TO BE GIVEN BEFORE TERMINATING EMPLOYMENT

(See Note 11)

By the employer to the employee _____

By the employee to the employer _____

(m) RELEVANT COLLECTIVE AGREEMENT (See Note 12)

Note for Employers: Details of the agreement and the relevant particulars should be outlined.

(n) APPLICABLE TO EMPLOYEES UNDER 18 YEARS OF AGE A copy of abstract of Protection of Young Persons (Employment) Act, 1996 must be given to employee no later than one month after commencement. (PYP leaflet)

(o) GRIEVANCE AND DISCIPLINARY PROCEDURES (See note 15) This is in relation to any changes in the particulars given above and employment outside the state, (See Note 13)

Signed: _____ Date: _____

(Proprietor/Manager/Company Secretary/Personnel Manager)

NOTES FOR EMPLOYERS ON COMPLETING WRITTEN STATEMENT OF TERMS OF EMPLOYMENT OF AN EMPLOYEE

Note 1: NAME OF EMPLOYER – Employers must state their full and correct name. In the case of a limited company, the name of the company as registered with the Companies Registration Office should be given.

Note 2: ADDRESS OF EMPLOYER – A number of options are available under this heading. The intention is to ensure that the employee is given the full and accurate address of the employer. The options are as follows:

- The full address in the State.
- The address of the principal place of the relevant business in the State (this could be appropriate in the case of a business which has a number of locations).
- The address of the registered office, i.e. address of the company as registered with the Companies Registration Office.

Note 3: PLACE OF WORK – Employers must state the place of work of the employee. If there is no fixed or main place of work, the employer must state the main place of business and State that the employee will be required or permitted to work in various locations.

Note 4: JOB TITLE/NATURE OF WORK – Employers must state either the title of the job, e.g. general operative, accounts clerk, or nature of work, e.g. construction work, accounts work, etc.

Note 5: IMPORTANT – Where employees are covered by an Employment Regulation Order or a Sectoral Employment Agreement, it is sufficient to refer the employee to the provisions of the relevant legislation, namely, an Employment Regulation Order, an employment agreement registered with the Labour Court, a collective agreement or a company handbook for the areas detailed in (g) to (l). However, copies of these documents must be made available.

Note 6: RATE OF REMUNERATION/MEANS OF CALCULATING REMUNERATION – In addition to basic pay, this heading covers any other aspects of remuneration such as Sunday premium, bonus, commission, productivity incentives, etc. (If the employer does not give details of the rate of remuneration, he/she must give details of the method of calculating the remuneration). If appropriate, it could be stated that the rate is as set out in a specified Employment Regulation Order or Sectoral Employment Agreement.

The following payments are regarded as wages: • Normal basic pay (as well as any overtime)

- Sunday premium • Shift allowances or other similar payments
- Any fee, bonus or commission • Any holiday, sick or maternity pay • Any other return of payment for work (whether made under the contract of employment or otherwise), and • Any sum payable to an employee in lieu of notice of termination or employment.

Sunday Premium: If already included in the determination of pay, this should be indicated. If not already included in the rate of pay, an employee is entitled to paid time off in lieu or a premium payment for Sunday working.

An employee is entitled to the premium payment for Sunday working payable to a comparable employee in a collective agreement in force in a similar industry or sector. This means that the Sunday premium, if not already paid, will be equivalent to the closest applicable collective agreement which applies to the same or similar work under similar circumstances and which provides for a Sunday premium.

The premium can be in the form of:

- An allowance • Increased rate of pay • Paid time off • Combination of the above.

The employer must indicate the pay reference period for the purposes of the National Minimum Wage Act 2000 and 2015. Also, the employer must state that the employee may request from the employer a written statement of the employee's average hourly rate of pay for any reference period falling within the previous 12 months as provided in Section 23 of the Organisation of Working Time Act, 1997.

Note 7: HOURS OF WORK – Employers must give details about the terms and conditions relating to hours of work including overtime. This should include arrangements in relation to length of normal working hours, Saturday/Sunday work, evening work, shift rotas or other such arrangements, as appropriate, and details of rest breaks and rest periods under the Organisation of Working Time Act, 1997.

Note 8: PAID LEAVE – Employers must give details of any terms or conditions relating to paid leave (other than paid sick leave which is covered in Note 9 below. This should include any paid leave schemes that the employer operates, for example holidays, maternity, special leave, etc. and any arrangements that apply to such leave.

Note 9: SICK LEAVE – Employers must state any terms and conditions that apply to an employee relating to incapacity for work or sickness/injury and paid sick leave, e.g. terms and conditions of sick-pay schemes, reporting of absences, production of medical certificates, rules relating to payment, etc. If this employment is covered by an ERO or SEO, then this should be stated.

Note 10: PENSIONS – Employers must state the terms and conditions of any pension schemes and any arrangements relevant to pensions. Further information in relation to pensions can be obtained at www.pensionsauthority.ie - telephone no. 01 613 1900, Lo Call 1890 656565.

Note 11: NOTICE – Employers must give details of the period of notice to be given by the employer and by the employee prior to the termination of the contract of employment. If it is not possible to indicate the period of notice when the written statement is given to an employee, the statement should clearly indicate the method for determining the period of notice. Where an employee has a statutory entitlement to notice under the terms of the Minimum Notice and Terms of Employment Act 1973 to 2015 this should be indicated.

Note 12: COLLECTIVE AGREEMENTS – Employers must refer to any collective agreements which affect the employee's terms and conditions of employment. In the case of collective agreements to which the employer was not a party but which apply to the employment concerned, organisations which made the agreement should be indicated. An example would be a registered agreement concluded by certain employers and unions within a sector of activity but binding on all. EROs and SEOs must be specified if they apply to the employment. This is in addition to the requirements to circulate or display copies of the agreements.

Note 13: ADDITIONAL NOTES

CHANGES IN THE TERMS OF EMPLOYMENT

Employers should note that, where there are any changes to the particulars contained in the written Statement, the nature and date of the change must be notified by the employer to the employee within one month of the change taking effect. In the case of changes as a result of an employee being assigned to employment outside the State for a period of not less than one month, the nature of the change must be notified before the employee's departure from the state. Changes to terms of employment must be agreed by both parties prior to those changes being implemented.

○ EMPLOYMENT OUTSIDE THE STATE

Employers should also note that, where an employee is assigned to employment outside the State for a period of not less than 1 month, an employer is required under Section 4 of the Act to provide additional information relevant to the employment outside the State (see explanatory leaflet on the Act for further details). The additional information may be provided in an Appendix to this statement.

Note 14: REST PERIOD NOT RECEIVED – Rests and intervals for work are provided for by Section 12 of the Organisation of Working Time Act, 1997. Section 12(2) provides as follows: 'An employer shall not require an employee to work for a period of not more than 6 hours without allowing him or her a break of at least 30 minutes; such a break may include the break referred to in subsection (1)'.

A strict application of the foregoing would permit an employer to require an employee to work for six hours before giving him or her a break of at least 30 minutes. However, one also must consider the nature of the work being done and the possible health and safety implications of allowing somebody to work for a relatively long time without a break.

The 15/30-minute break (as the case may be) which an employee is entitled to as a consequence of Section 12 cannot be postponed until the end of the working day. It must be given to the employee during the course of the working day (See Section 12(4)).

Breaks are compulsory and employees may not waive their rights to them.

Note 15: For General Information on Disciplinary Procedures please use the following link:

www.workplacerelations.ie

For General Information on Procedures for Addressing Bullying in the Workplace please use the following link:

www.workplacerelations.ie

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