

Employment Law for those involved in the Equine & Land based sectors

The Equine and Land based sectors are not an exception to the many and various rules and regulations which seek to control those who employ or are employed.

Whether hiring/being hired, firing/being dismissed or continuing to employ or be employed there are potential pitfalls at every hurdle.

Examples of rules and regulations which apply at every stage of the employment relationship are as follows:

Do I have to provide and/or am I entitled to a reference?

Unless there is an express agreement between the parties an employer does not have to provide and as an employee you are not entitled to a reference. If a reference is provided and it is of a general nature it should address such issues as length of service; position held; competence; honesty; time keeping and reason for leaving. When providing a reference it needs to be remembered that an inaccurate reference can lead to a claim by the recipient for any loss suffered. Likewise a claim can be made by the employee if it is not fair and reasonable.

Do I have to provide and/or am I entitled to a contract of employment?

Although it is good practice, there is no entitlement to a contract of employment. That said, for some considerable time an employer has had to provide and an employee is entitled to receive, written particulars (a "statutory statement") of their main terms and conditions of employment. The statutory statement has to be provided not later than two months after the beginning of the employee's employment. Certain particulars must be included such as the names of the parties; the dates when employment and continuous employment began; remuneration; hours of work; holiday; place of work and job title or description. If the statutory statement is not supplied an employee can apply to a tribunal.

Do I have to provide and/or am I entitled to paid holiday?

Yes is the answer in both cases. Holiday entitlement is governed by the contract of employment/statutory statement and the Working Time Regulations 1998. The Regulations provide workers with a minimum entitlement to paid holiday. The contract of employment may be more generous. The minimum entitlement for a person, who works full time five days a week, is currently 24 days a year to include the 8 statutory bank holidays. On the 1st April 2009 this will increase to 28 days a year and pro rata for part time workers. Overtime is only included in the amount you get paid per week whilst on holiday if overtime is fixed under a persons contract of employment.

Do I have to provide and/or am I entitled to a minimum wage?

An employer and employee are entitled to agree whatever wage rate they want provided it does not contravene The National Minimum Wage Act 1998. From October 2008 the national minimum wage will be £5.73. For 18-21 year olds it will be £4.77 and for 16-17 year olds it will increase to £3.53. The rights under this act cannot be signed away.

Do I have to provide and/or am I entitled to maternity/paternity leave?

You as the employer have obligations and employees have rights. These extend not only to mothers but also fathers and people adopting. Mothers are entitled to 52 weeks of maternity leave provided they tell their employer by the end of the 15th week before the expected week of confinement. There is a compulsory period of maternity leave which is two weeks after the child is born. You are entitled depending on the length of your leave to return to work to the same job you were doing before you left. A father can in certain circumstances have two weeks paid paternity leave. There are similar rights for employees adopting a child.

Do I have to provide and/or am I entitled to express my concerns through a grievance procedure?

This is a complex area and this fact sheet cannot be comprehensive on the subject. That said, the answer to the question above is yes. In summary the grievance procedure is governed by the individual contract of employment and also Regulation being principally, but not only, the Employment Act 2002 (Dispute Resolution) Regulations 2004. Pursuant to Regulation there are two types of grievance procedure, Standard and Modified. The Standard applies to most situations and should if possible be followed in all situations and the Modified applies to some situations. The statutory procedure only applies to employees but employers can extend them to casual and agency workers if they want. The statutory procedures must be followed if possible because failure to do so can give rise to significant financial penalty against both the employer and employee if not followed.

Do I have to provide and/or am I entitled to a safe place of work?

Not only is the employee entitled to a safe place of work but also a safe system. Both are MUST requirements on an employer. Health and safety is one of the most regulated areas in employment law. For the unwary there are many enforcement bodies to include the Health and safety Executive; Criminal courts; Coroners courts; Tribunals and the Civil court system. It is by way of example a must requirement for an employer to do a risk assessment in respect of his premises (indoor and outdoor) and to review the assessment so as to ensure an employee has a safe place of work. There is then the need for training to ensure that employees know the systems of work and what is expected of them to keep them safe. This applies especially so with the land based sectors because of the physical requirements expected of employees and the types of equipment which can be used.

The above information is not intended to be a complete or definitive statement of the law as it is. For more information please contact **Rachel Fereday** on rmf@awdryes.co.uk or on **01380 732913**.