



Accommodation

Licence

An accommodation licence helps avoid misunderstandings and will be of assistance if you need to assert your rights in respect of the property. The NTF legal expenses insurance provides legal assistance for recovering property from a former employee, subject to terms and conditions of insurance.

The NTF has produced two draft service occupancy licences for trainers to use – one is where the employee has shared accommodation and the other is for the sole use of a property. These licences are in this Accommodation area of the NTF website.

You can, of course, use your own form of licence or agreement. A service occupancy agreement runs alongside the employee's employment contract. Both should be completed at the same time.

These service occupancy agreements are designed to create a licence rather than a tenancy.

Possession can be obtained faster for a licence and the employee can be required to vacate on termination of employment.

The licences do not provide for charging a rent or a fee for the accommodation to avoid creating a tenancy.

Charging rent or a licence fee

It is possible to charge for the accommodation without creating a tenancy provided the elements of a service occupancy agreement exist – that is where the accommodation is required by the employee to better perform their duties and the employee is expressly required to occupy the accommodation to perform those duties.

Where a fee or rent is charged a tenancy may be found to exist regardless of what the agreement states if the employee's occupation of the accommodation is not of material assistance to their employment or was offered as a fringe benefit or the employee had the option as to whether to take the accommodation or not as part of their job.

If employees are obliged to live on site so as to be on hand to deal with equine emergencies, i.e. out of hours, it is unlikely that a tenancy will be created even where a rent is charged.

If the employee is dismissed but not required to vacate care must be taken to avoid a tenancy being created. Legal advice should be taken if continued occupation is proposed.

National Minimum Wage/National Living Wage (NMW) – the accommodation offset

Accommodation provided by an employer can be taken into account when calculating the NMW.

The Government sets a figure each year which is called the accommodation offset. If the employer charges more than the offset rate, the difference is taken off the employee's pay which counts for the NMW – so the higher the fee charged for the accommodation, the lower the employee's wage for NMW purposes.

If the accommodation charge is at or below the offset rate, it does not have an effect on the employee's pay.

If the accommodation is free, the amount of the offset rate is nominally added to the employee's pay purely for NMW calculations. It is not physically added on to the pay and the offset is not shown on the payslip.

The rate of the accommodation offset as at 1st April 2024 is £9.99 per day/£69.93 a week. This figure normally increases each April.

There is separate guidance on the accommodation offset in this accommodation area of the NTF website.

Other costs – gas and electricity

If the employer deducts from the worker's wages for gas and electricity or laundry, that amount must be included in the daily allowance set currently at £9.99 per day (April 2024). If the worker is responsible for paying the utilities company direct, the accommodation offset rules do not apply to those payments. There is further guidance in the accommodation offset advice sheet.

Deductions from wages in respect of accommodation.

To make any deductions from wages, there needs to be a provision in the employee's contract or the employee must give written consent or agreement to the deduction. Any deductions from pay and the purpose for which they are deducted must be set out on the wage slip. You can include the right to deduct the accommodation fee in the employment contract.

Tax treatment of accommodation

The tax treatment of staff employed by racehorse trainers is set out in the HMRC Employment Income Manual at [EIM 11351](#) (living accommodation) and [EIM 68502](#) (board and lodgings).

A very brief summary is that racing staff who have free living accommodation (as opposed to board and lodgings) will be tax exempt on the benefit of that accommodation:

- If they live within the curtilage of the training establishment, or
- if the employees can reach the yard within ten minutes or,
- if they have motorised transport and live within a five mile radius of the yard provided the staff are grade A staff (NVQ level 3 equivalent).

The employee will be taxed on the costs of the accommodation paid by the employer e.g. telephone bills, heating, lighting and cleaning but exempt staff have the liability capped under income tax legislation. Board and lodgings where the employee is dependent on someone else for cooking, cleaning and laundry are treated differently and it is likely that very few employees will meet the strict exemption from tax conditions on board and lodgings.

Information is available on the NTF website www.racehorsetrainers.org in [NTF guide on the tax treatment of living accommodation](#)

Deductions for cleaning/repair of property

You can only make deductions from wages for unpaid bills relating to the accommodation or costs such as repairing damage or replacing lost items if the deduction is either required or authorised by a term in the worker's contract or if the worker has agreed in writing to the deduction before the deduction is made and before the event leading to the deduction has occurred.

The NTF standard licence contains appropriate wording. If you are using another form of agreement for the property check it has the necessary rights to make deductions within the agreement.

Safety

You should check that the property complies with electrical and gas safety regulations – a suitably qualified electrician and gas engineer should be able to advise. You should also ensure that the furniture is fire safe. As below, there are specific requirements for an HMO.

House in Multiple Occupation

A property is classified as a House in Multiple Occupation (HMO) if at least 3 tenants live there forming more than one household, and toilet, bathroom or kitchen facilities are shared.

If the property is occupied by five or more occupiers who form at least two households and share facilities the property will require licencing by the local authority. Some local authorities have different licencing rules and may require smaller shared houses to be licensed and you should check your local council's requirements.

A household is defined as either a single person or members of the same family who live together, whether married or living together. For example, if you have 5 single staff in a property or two couples and a single person, then you would have a property which requires licencing.

For it to be a house in multiple occupation the property must be their only or main accommodation. If an employee is from abroad then the work accommodation is taken as their main residence, not their home address abroad.

Even if the property does not require a licence, the landlord of an HMO must keep on top of health and safety including annual appliance checks, properly fitted and maintained smoke and carbon monoxide alarms and the communal areas kept clean and clear.

All furniture in the HMO should be fire-safe. Combustible materials such as curtains, bedding and upholstered furniture should be made of fire-retardant materials.

We strongly advise members to speak to the safety officer at their local fire authority to check what is required and your local council to discuss whether a licence is required and the property standards that must be met including with regard to gas and electrical safety.

Fire Safety

You should ensure that occupiers know the fire escape routes, these are kept free of obstructions and trip hazards and that they know how the fire detection system works, what to do if it is activated and where fire extinguishers and blankets are located, how to use these and how and when to call the fire brigade. You should also let the occupiers know how to report any concerns about defects in the property and the importance of keeping fire doors closed along with any other rules relating to the property.

National Trainers Federation
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