EMPLOYMENT REFERENCE DOCUMENT (ERD)

Re-published **April 2024** by:

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Members are reminded to ensure that they refer to the latest edition of the ERD and should destroy any earlier versions previously received.

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INTRODUCTION

As from the 14th November 1997, the Plant Hire Working Rule Agreement (PHWRA) ceased to exist.

Many of its provisions, however, remain important to plant hire firms in forming Contracts of Employment with their employees.

For this reason, the CPA's Employment Reference Document (ERD) provides guidance to CPA Members on employment issues which affect the day-to-day running of a plant-hire company and which are too numerous and detailed to be covered fully in the Contract of Employment.

Previous users of the PHWRA will notice the similarity in the provisions of both documents. This is so that any existing employment contracts, which referred to the PHWRA, can easily be altered to make reference to the ERD.

The main distinction between the two documents is that the ERD is for guidance only and in no way commits the employer to any particular pay structure, holiday dates or employee insurance / death and accident benefit schemes. This matter remains the responsibility of the employer and is fully negotiable between the employer and the employee.

Any opinion, information and/or advice given in this document is not, nor should it be construed as being, legal, specialist, and/or expert advice and it should not be relied upon on such. The Construction Plant-hire Association shall have no liability for any damage, liability, cost, loss and/or expense which the reader of this document, or any other person, incurs as a result of relying upon the content of this document as legal, specialist and/or expert advice.

The provisions of the ERD are written as "Rules" for use by CPA Members in their Contracts of Employment ***totally or selectively,*** depending on each company's circumstances.

These rules have been fully discussed and agreed by the Construction Plant-hire Association Council who endorses them as a fair basis for any Employment Contract within the plant hire industry.

Supplied by and on behalf of The Construction Plant-hire Association:

1. AUTHORITY OF THIS DOCUMENT

As well as the commitment to notify members of changes to rule 15, the CPA Council will keep the provisions of this document under review.

Whilst there is nothing to prevent a CPA member firm from altering any of the document's provisions, the matter should be considered with some caution, particularly where there are cross-references between various rules. The CPA would be pleased to give advice if necessary.

2. STATEMENT OF PARTICULARS UNDER CONTRACTS OF EMPLOYMENT ACT

This document, or parts of it, may be incorporated into the employee's Contract of Employment by specific reference in the Statement of Particulars under:

- The Employment Rights Act 1996,
- The Employment Relations Act 1999, and
- The Employment Act 2002 and 2008;

Together with any subsequent legislation.

3. WORKING HOURS

The working hours shall generally be 39 hours per week, worked as 8 hours per day Monday to Thursday and 7 hours on Friday.

Starting and finishing times and meal intervals shall be fixed as appropriate to the job.

4. ORDINARY RATE AND NORMAL WORKING HOURS

The basic rate per hour payable (hereafter called the "ordinary" rate) should be clearly established and written into the employee's Contract, together with any other special condition payments (e.g. for height or exposed work).

4.1 The expression "ordinary rate" shall mean the hourly day or night (as the case may be) rate payable to a man in respect of work done during the normal working hours of the day (or night). It excludes any additional payments in respect of conditions under which work is done and excludes any possible site bonus.

4.2 The expression "normal working hours" in relation to a day or night shall mean the number of hours (per day or per night) prescribed in relation to a day by rule 3 reckoned from the starting time prescribed by the employer.

5. OVERTIME RATES

(a) General

On the first five days of the week, overtime shall be paid as follows:

The first four hours after the ordinary working day will be at time and a half, (except where time has been lost due to the fault of the employee, in which case overtime rates will begin after they have worked the hours of a normal day). Thereafter, until completion, working hours will be at double time.

Saturday will be at time and a half, until completion of the first four hours, or until 12 o'clock noon, whichever occurs first. Thereafter, Saturday and all of Sunday until starting time on Monday morning will be at the rate of double time.

Where for the purpose of carrying out work, the employee is called out after completing a day or night's normal time; they shall be paid at overtime rates for the time worked as if they had worked continuously. Any interval shall count to determine the rate, but this interval shall not be paid for.

Overtime shall be calculated on the ordinary rate. Accordingly, any site bonus or other additional payments shall not be enhanced when calculating overtime payments.

In no case shall payments exceed double ordinary time.

(b) Public Holidays

All work carried out during public holidays (rule 10) shall be paid for at double time.

6. NIGHT WORK (This Rule does not apply to "shift workers" as defined in rule 7.1.)

Surface Work
Where ordinary surface work (not in connection with tunnels or work on which there are three eight-hour shifts in 24 hours) is carried out at night by a separate gang of employees from those working during daytime, employees so working shall be paid at one and a quarter ordinary rate.

Overtime shall be calculated on ordinary rate provided that in no case shall total payment exceed double ordinary time. Overtime shall therefore be paid as follows:

(a) Monday to Friday
Each night from Monday to Friday, after the number of normal working hours specified in rule 3 for that day, at the rate of time and three-quarters (i.e., time and a half plus one-quarter of ordinary rate) for the next four working hours and thereafter at double time.

(b) Weekends
All hours worked on Saturday night at double time.

All hours worked on Sunday night at double time until midnight Sunday, followed by time and three-quarters (i.e. time and a half plus one-quarter of ordinary rate) for the next four working hours and thereafter at double time.

7. SHIFT WORK

7.1 "Shift Workers"

Those employees, whose normal duties are such as to require them to hold themselves available for work during mealtimes and in consequence have no regular mealtime, shall be deemed "shift workers" and shall be responsible for taking over from and handing over to their counterpart at commencement and completion of duty.

They shall be paid the number of hours they are on duty on the job at ordinary rate plus one-fifth of ordinary rate per hour shift differential. If for a particular job they are required to be on duty between 10 p.m. Saturday and 10 p.m. Sunday, they shall during these hours be paid at the rate of one and a half plus one-fifth of ordinary rate per hour shift differential. Provided that the shift differential of one-fifth of ordinary rate per hour, shall be deemed to be a conditions payment and shall not be enhanced when calculating overtime payments. If work in such hours is not within the normal cycle of operations for the particular job, no shift differential shall be paid, but the rate of payment shall be double the ordinary rate.

This does not apply to employees working under rules 6, 7.2 or 9.

7.2 Eight-hour Rotary Shifts

On all work which is being carried out by three eight-hour shifts in the 24 hours, employees shall be paid for eight hours per shift at ordinary rates plus in the case of employees completing the shift, a shift differential of 14% of the ordinary rate per hour.

The normal aggregate number of shifts in the week shall be 15, which shall generally be worked between 10 p.m. on Sunday and 2 p.m. on the following Saturday. Provided that, if the shift commencing on Sunday night is worked, it shall be the first shift in the week. In addition, if the aggregate number of shifts in the week exceeds 15:

(a) The 16th and 17th shifts shall be paid at time and a half plus the shift differential of 12½% of ordinary rate per hour provided that the shift differential shall be deemed to be conditions payment and shall not be enhanced when calculating overtime payments, and

(b) The 18th and subsequent shifts in the week shall be paid at double the ordinary rate but no shift differential shall be paid.

7.3 Rule 7.2 will also apply in cases where two eight-hour shifts are worked in the 24 hours except that the normal aggregate number of shifts in the week shall be 10. Provided that, if the aggregate number of shifts in the week exceeds 10:

(a) The 11th and 12th shifts shall be paid at time and a half plus the shift differential of 12.5% of ordinary rate per hour, provided that the shift differential shall be deemed to be a conditions payment and shall not be enhanced when calculating overtime payments, and

(b) The 13th and subsequent shifts in the week shall be paid at double the ordinary rate but no shift differential shall be paid.

This does not apply to employees working under rules 6, 7.1 or 9.

8. TIDAL WORKING

8.1 Where work under tidal conditions is carried out during only part of the normal working hours, and employees are employed on other work for the remainder of the normal working hours, ordinary rates, (together with any agreed addition payable in respect of the conditions under which work is done), shall be paid during the normal working hours and thereafter payment shall be in accordance with rule 5.

8.2 Where work under tidal conditions necessitates the employees turning out for each tide and they are not employed on other work, they shall be paid a minimum for each tide of 6 hours' pay at ordinary rates, provided they do not work more than eight hours in the two tides. Work over 8 hours shall be paid for proportionately. Work done on Saturday after 4 p.m. and all Sunday shall be paid at the rate of double time. Employees shall be guaranteed 8 hours at ordinary rates for time worked between 4 p.m. and midnight on Saturday and 16 hours at ordinary rates for two tides worked on Sunday.

9. TUNNELS

(This rule does not apply to "shift workers" as defined in rule 7.1)

The long-standing custom in the construction industry is that tunnel work is normally carried out by day and by night.

Where double shifts are being worked in connection with tunnels the first period of the shift equivalent to the normal working hours specified in rule 3 for that day shall be deemed to be the ordinary working day. Thereafter the next four working hours shall be paid at time and a half and thereafter at double time.

Provided that:

(a) In the case of shifts worked wholly on Saturday, the first four hours shall be paid at time and a half and thereafter at double time.

(b) In the case of shifts worked wholly on Sunday, payment shall be made at double time.

(c) In the case of shifts commencing on Saturday but continuing into Sunday, payment shall be made for all hours worked at double time.

(d) In the case of shifts commencing on Sunday but continuing into Monday, hours worked before midnight shall be paid for at double time and thereafter four working hours calculated from midnight shall be at time and a half and thereafter at double time.

10. PUBLIC HOLIDAYS

(a) England and Wales

Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, the Early May Day Bank Holiday, the Spring Bank Holiday**,** and the Summer Bank Holiday shall be recognised as public holidays in England and Wales, provided such days are generally recognised as holidays in the locality in which the work is being done. Where in any locality, any such day is generally worked, and another day is, or other days are, recognised as a general holiday, then not less than one such other day shall be recognised as an alternative holiday.

(b) Scotland

Christmas Day, Boxing Day, New Year's Day (1st January), 2nd January, Good Friday, the Early May Day Bank Holiday, the Spring Bank Holiday, Summer Bank Holiday and St Andrew's Day shall be recognised as public holidays in Scotland, provided such days are generally recognised as holidays in the locality in which the work is being done. Where in any locality, any such day is generally worked, and another day is, or other days are, recognised as a general holiday, then not less than one such other day shall be recognised as an alternative holiday.

(c) Northern Ireland

Christmas Day, Boxing Day, New Year's Day, St Patrick's Day, Good Friday, Easter Monday, the Early May Day Holiday, the Spring Bank Holiday, 12th July, Summer Bank Holiday shall be recognised as public holidays in Northern Ireland, provided such days are generally recognised as holidays in the locality in which the work is being done. Where in any locality, any such day is generally worked, and another day is, or other days are, recognised as a general holiday, then not less than one such other day shall be recognised as an alternative holiday.

(d) Republic of Ireland

Christmas Day, St Stephen's Day, New Year's Day, St Brigid's Day, St Patrick's Day, Easter Monday, May Day Holiday, June 3rd, August 5th and October 28th shall be recognised as public holidays in the Republic of Ireland, provided such days are generally recognised as holidays in the locality in which the work is being done. Where in any locality, any such day is generally worked, and another day is, or other days are, recognised as a general holiday, then not less than one such other day shall be recognised as an alternative holiday.

11. PAYMENTS IN RESPECT OF PUBLIC HOLIDAYS

11.1 Payment for each public holiday shall be made to the employee on their usual pay day in which the holiday arises, except for the winter holiday which must be paid on the last pay day before the winter holiday begins.
(If required, it is possible to make such payments via the B&CE Benefits Scheme's Template system – see rule 12(b)(i)).

Note: In 2014, the Employment Appeal Tribunal handed down a decision which changed the way Holiday Pay is calculated. This has implications on the way our Members calculate holiday pay now and, in the future, and there is a potential for back pay for your employees. As Members have differing dates on which their holiday year begins, together with other intricacies which may be bespoke to them, we suggest that you should contact ACAS directly and/or discuss this with your Human Resource / Payroll department(s) and/or accountant(s), to decide how you will deal with this going forward.
Further information on this can be found on the CPA's website – www.cpa.uk.net/employment/ or you can contact the CPA directly.

The employee receives pay for Public Holidays provided that:

(a) An employee who would have received public holiday pay for a particular week but who has since left, is entitled to that holiday pay if he was in his employer's employment in the preceding week the holiday falls. Provided he has completed six normal working days and that the employer (other than for misconduct) terminated the employment before the holiday occurred.

Where the holiday is Christmas Day, payment shall also be made for Boxing Day and New Year's Day. Where the holiday is Good Friday, payment shall also be made for Easter Monday. Payment shall be made on termination of employment.

(b) An employee who works on a public holiday or is on annual holiday on the occasion of such a public holiday, can arrange an alternative day of holiday that is mutually convenient to both employer and employee.

The payment prescribed by this rule shall be made in respect of such alternative day **instead of** the public holiday.

When the employment is terminated before such alternative day occurs, the operative shall receive such payment on the termination of employment.

12. ANNUAL HOLIDAYS WITH PAY

Note: In 2014, the Employment Appeal Tribunal handed down a decision which changed the way Holiday Pay is calculated. This has implications on the way our Members calculate holiday pay now and, in the future, and there is a potential for back pay for your employees. As Members have differing dates on which their holiday year begins, together with other intricacies which may be bespoke to them, we suggest that you should contact ACAS directly and/or discuss this with your Human Resource / Payroll department(s) and/or accountant(s), to decide how you will deal with this going forward. Further information on this can be found on the CPA's website – www.cpa.uk.net/employment/ or you can contact the CPA directly.

(The holiday dates detailed below have been custom and practice in the Industry. Members, if creating Contracts of Employment from scratch for new employees or after fresh negotiations with their current workforce can change these dates to fit in with the company's operational requirements.)

Holidays with pay shall be as follows:

(a) The **Winter Holiday** shall be seven working days taken in conjunction with Christmas Day, Boxing Day (St Stephen's Day) and New Year's Day, to give a Winter Holiday of two calendar weeks. The CPA will publish the dates of each Winter Holiday.

The **Easter (Spring) Holiday** shall be the four working days immediately following Easter Monday (or the appropriate Spring Holiday Monday in Scotland), to give an Easter (Spring) Holiday of one calendar week.

The **Summer Holiday** shall be two calendar weeks, not necessarily consecutive, to be granted in the "summer period" - i.e. between 1st April and 30th September. Except by mutual agreement, neither week is to be taken in conjunction with the Easter (spring) Holiday. **(Where applicable)**

*The Construction Industry Joint Council (CIJC) and the Trades Unions have agreed that t*he concept of Easter (spring) and Summer holidays be discontinued in favour of "Other Holidays". The *remaining 15 days of Industry holidays may be taken at any time by agreement with the employer.*

Note:
From the 1st April 2009, a worker's minimum holiday entitlement under the Working Time Regulations was increased to 28 days including Bank and Public holidays. This holiday entitlement is based on the employee working a 5-day week. **For 2023 this will increase to 29 days holiday to reflect the King's Coronation on May 8th.**

(b) Holiday pay may be provided in one of two ways:

(i) By participation in the B & CE Benefit Schemes' "Template" system which is operated from the Schemes' offices at Manor Royal, Crawley, West Sussex, RH10 9QP (Tel: 0300 200 0555). Under "Template", every month the employer makes a regular payment to a "holiday fund" from which employees' holiday pay is provided as and when required. Further benefits of "Template" include death in service and accident benefits, (see Rule 28) and contribute to a stakeholder pension for each employee included in the scheme.

Or

(ii) By payment direct from the employer's own resources.

13. PAYMENT OF WAGES

13.1 The pay week shall generally be from midnight Sunday to midnight Sunday. At the option of the employer, wages may be made up to Friday nights.

13.2 Payment of wages shall be made on Thursday, provided that

(a) Where a recognised public holiday occurs in a pay week, wages may be paid on a suitable alternative day in the week; and

(b) Where an annual holiday occurs, the wages in respect of the pay week immediately preceding such holiday shall, subject to (a), be paid on the Thursday in the pay week immediately succeeding such holiday.

14. TEA BREAKS

Only where systematic overtime of not less than two hours each day is worked on a job shall a tea break (to be taken in the afternoon) be permitted. When permitted, a tea break shall not exceed 10 minutes.

15. REFUELLING, SERVICING, MAINTENANCE AND REPAIRS

Concrete mixer and compressor employees, drivers of excavators, trench diggers, loading shovels, tractors, power rollers, to be paid at ordinary rates half an hour before and half an hour after ordinary time **if required** for preparatory or finishing work, such as refuelling, oiling round, getting out, starting up, checking over, cleaning out and parking the machine.

If required to be done on a Sunday a shift of 8 hours at ordinary rates to be paid to one employee for diesel and petrol excavator, roller, trench digger, tractor, for greasing, changing oil and general servicing. A shift of 5 hours at ordinary rates is to be paid to one employee if required to be done out of working hours on Saturday.

Electric machine repair and maintenance work to be paid at overtime rates if completed out of working hours.

16. TRAVELLING AND EMERGENCY WORK INSTRUCTED BY EMPLOYER

If an employee employed at his employer's place of business is sent from there, or if employed on a job, from that job to the site of other work for the purpose of doing any work or, not being at work is called from their home at a time not within normal working hours, for the purpose of carrying out emergency work, the employee shall be allowed travelling expenses, where incurred, and time, at ordinary rates, spent in travelling one journey each way to and from the job.

Normal working hours for the purposes of this paragraph shall include night work hours where the employee is for the time being employed on night work.

17. TRAVELLING AND SUBSISTENCE ALLOWANCES

NOTE: Her Majesty's Revenue and Customs (HMRC) has confirmed that with effect from the 6th April 2013, each employer will have to effectively make its own arrangements with their workforce regarding the level of subsistence allowance to be paid and would also need to arrange a dispensation with their local tax office.

(a) Daily Travel

If the employer does not provide transport free, travelling allowances shall be paid for daily journeys to/from the job. The amounts payable shall be negotiated between Her Majesty's Revenue and Customs (HMRC) and the employer; or shall be negotiated between the employer and its' employees (or their recognised representatives) with the approval of HMRC.

(b) Conditions affecting Daily Travel

Conditions affecting daily travel shall be agreed between HMRC and the employer; or shall be negotiated between the employer and its' employees (or their recognised representatives) with the approval of HMRC.

(i) **Measurement of Distances**

If still working under the old radius allowance system, all distances are measured in a straight line from DEPOT to SITE. If the employer has moved to the new system based on actual expenditure incurred (normally payable as a car mileage allowance) all distances are measured from the employee's RESIDENCE to the SITE. In both cases, where special physical conditions arise (such as a river or mountain range) making the operation of such straight line measurement inequitable, the distance shall be measured in a straight line from the site to the nearest crossing place, then in a straight line across the crossing place, and then in a straight line to the DEPOT or RESIDENCE depending on which system is being used.

[N.B. – The HM Revenue & Customs moratorium allowing employers to continue on the old plant hire working rule agreement system of radius allowances expired in April 2005. All employers must have moved to the new system on or by that date.]

(ii) **Employees in Receipt of Periodic Leave and / or Subsistence Allowance**

To qualify for radius allowance or daily travelling allowances (mileage) in addition to periodic leave and / or subsistence allowances, an employee must show they are living as near to the site as there is accommodation (being a camp or other accommodation) available. In such cases, the accommodation in respect of which subsistence allowance is paid shall be deemed to be the depot or residence for the purposes of 17(a) and 17(b)(i) above.

(iii) **Normal Working Hours**

Time spent in daily travelling is not to be reckoned as part of normal working hours.

(c) Periodic Travel

(i) Fares shall be paid, or, at the option of the employer, the employee may be conveyed:

(a) From either the plant hire depot, from another site or from a centre convenient to the employee's home (at the discretion of the employer), to the site at the commencement of their employment on that site;

(b) From the site either to the plant hire depot, to another site, or to a centre convenient to the employee's home (at the discretion of the employer), on termination of their employment on that site;

(c) To and from the site at the following periodic intervals: sites up to 128 kilometres (80 miles) from the plant hire depot (measured in a straight line) - every 6 weeks.

Sites over 128 kilometres (80 miles) from the plant hire depot (measured in a straight line) - at an interval fixed by mutual arrangement between employer and the employee before the employee goes to the site.

(ii) Payment for time spent travelling between the plant hire depot or other starting point and the site:

(a) At commencement of their employment at the site provided that the employee shall not be entitled to such payment if, within one month from the date of commencement of their employment on the site, the employee discharges themselves voluntarily or is discharged for misconduct.

(b) On termination of their employment on the site by their employer, provided that the employee is not discharged for misconduct.

(j) In returning to the site (i.e. one way only) after periodic leave provided that the employee returns to the job at the time specified by the Client Contractor and provided also that the employee shall not be entitled to such payment if, within one month from the date of the employee's return to the job, the employee discharges themselves voluntarily or is discharged for misconduct.

(d) Conditions affecting Periodic Travel

(i) Convenient Centre

A convenient centre shall be a railway station, bus station or other similar suitable place in the area in which the employee is living.

(ii) Measurement of Distances

All distances shall be measured in a straight line from the plant hire depot to the site, to another site or to a convenient centre in the area in which the employee is living. Where the employee is entitled to periodic travelling time payments, they shall only be paid in respect of the journey one way.

(iii) Payment of Fares

Where in the case of periodic leaves employers do not exercise the option to provide free transport, the obligation to pay fares may, at the employer's option, be discharged by the provision of a free railway ticket or bus ticket or travel voucher or the rail fare.

(iv) Travelling time payments

(a) Time spent in periodic travelling is not to be reckoned as part of the normal working hours.

(b) Periodic travelling payments shall in no case exceed payment for 8 hours per journey.

(c) Periodic travelling time payments shall, in all cases, be at ordinary rates to the nearest quarter of an hour

(e) Subsistence Allowances

Subsistence allowance at the rate agreed between HMRC and the employer, or the rate agreed between the employer and its' employees (or their recognised representatives) with the approval of HMRC, is to be paid per night to an employee necessarily living away from the place in which they normally reside.

Subsistence allowance shall not be paid in respect of any day on which an employee absents themselves from work except that subsistence allowance shall be paid by an employer to an employee in their employment in respect of any such day covered by the medical certificate after mentioned during which

(i) The employee is absent from work due to sickness or industrial injury, and

(ii) The employee continues to live in the accommodation, the occupation of which had entitled them to subsistence allowance immediately prior to the sickness or industrial injury.

In addition, the employee sends the employer a Certification of Incapacity for Work (a Medical certificate) as per rule 27(6).

18. ALCOHOL AND DRUG ABUSE POLICY

NOTE: The ban on drugs classed as "Legal Highs" (which includes Nitrous Oxide ("Laughing Gas"), was introduced under the Psychoactive Substances Act 2016. These "legal highs" are now considered as Class A, B or C drugs (depending on their strength) and will either contravene the Psychoactive Substances Act or the Misuse of Drugs Act 1971.

The penalties for drug driving are the same as drink driving. A conviction can carry up to a minimum twelve-month driving ban, a criminal record, a fine of up to £5,000 (unlimited for Drug Driving offences) or up to six months in prison or both.

It should be remembered that the penalty for causing death by dangerous driving whilst under the influence of drink or drugs is up to 14 years in jail.

The Health and Safety at Work etc. Act 1974 (HSWA) requires employers to ensure, so far as is reasonably practicable, the health and safety of all employees while at work, including those engaged in "on the road" work activities. Employers have a responsibility to ensure that others are not put at risk by their employees' work-related activities, including driving for work purposes.

Members can use this clause as they see fit.

The Employer's Responsibility

This statement sets out the policy in respect of any employee whose proper performance of their duties is or may be impaired as a result of drinking alcohol or taking drugs. The Company will take all reasonable steps to ensure that all employees are made aware of the contents of this statement. The Company will endeavour to have in place procedures to prevent, in so far as is reasonably practicable, an offence under any relevant criminal and civil legislation and to monitor the effectiveness of such procedures.

The Employee's Responsibility

Although the legal threshold of alcohol in your system and the status of prohibited drugs may change, it is still covered by the Company's Alcohol and Drug policy. Therefore, you must not report for duty whilst affected by alcohol, or drugs, whether they are prescription, pharmaceutical or medicinal, which may affect your concentration and ability to perform your duties. If you are taking a course of treatment which may impair your ability and / or concentration, you must discuss this with your manager at the earliest opportunity.

The laboratory screening and analysis process can detect the difference between direct and passive drug use, together with identifying the quantities of alcohol drunk and when this occurred.

It is a requirement that as an employee of (add company name):

- You must not report for work if unfit through misuse / abuse of alcohol or drugs (including prescription, pharmaceutical or medicinal drugs).

- If you have drunk alcohol, this must completely clear your system before you report for work. If you need to be sent home, either unpaid leave, or, a day's holiday will be allocated to cover the absence.
- You must not consume alcohol or any drugs which may affect your performance or concentration whilst at work, or any place where you will be working
- You must not be in possession of any alcohol or illegal drugs / substances whilst at work, or any place where you will be working.

The Company will not tolerate any departure from these rules and will take disciplinary action, which may result in the employee's dismissal.

A programme of screening has been put in place. This includes procedures to:

- Undertake unannounced testing of 10% of all staff annually.
- Detect the use of alcohol or drugs by potential employees who will work in areas where health and safety are of paramount importance.
- Detect the use of alcohol and or drugs by any person(s) involved in an incident where there are grounds to suspect that the actions of the person(s) led to the incident.
- Detect the use of alcohol and or drugs where abnormalities of behaviour prompt managerial intervention (which may include a request for screening).

For the purpose of this policy, a positive screening result means that screening for alcohol and drugs shows: -

- The presence of illegal drugs, or the misuse or abuse of prescription, pharmaceutical or medicinal medication which affects work performance or concentration; or,

- More than 29 milligrams of alcohol in 100 millilitres of blood; or,

- More than 13 micrograms of alcohol in 100 millilitres of breath; or,

- More than 39 milligrams of alcohol in 100 millilitres of urine.

Table of Drugs and Limits outlined in the Drug Driving Legislation 2015

Illegal Drugs (Zero tolerance approach by the employer including accidental exposure to the employee)	**Threshold limit per litre in blood**
Benzoylecgonine	50 micrograms
Cocaine	10 micrograms
Delta-9-tetrahydrocannibinol (Cannabis)	2 micrograms
Ketamine	20 micrograms
Lysergic acid diethylamide (LSD)	1 microgram
Methylamphetamine	10 micrograms
MDMA	10 micrograms
6-monoacetylmorphine (Heroin)	5 micrograms

'Medicinal' Drugs (Risk based approach by the employer)	Threshold limit per litre in blood
Amphetamine	250 micrograms
Clonazepam	50 micrograms
Diazepam	550 micrograms
Flunitrazepam	300 micrograms
Methadone	500 micrograms
Morphine	80 micrograms
Oxazepam	300 micrograms
Temazempam	1,000 micrograms

Employees are also confirming that they understand that they may be required by the Company to go for an Alcohol and Drug screening test. Non-compliance could result in disciplinary action and dismissal, with key Major Contractors being informed accordingly. They also confirm and understand that customers may require employees to undertake an instant and unannounced alcohol and drugs screening test whilst on their site, and hereby give their consent to the above.

Where there are reasonable grounds for the company to suspect that an employee's actions or omissions are contributable to the use of alcohol and / or drugs; then they will be screened immediately for alcohol and drugs. Unannounced alcohol and drug screening will also be carried out on people employed to work in areas where health and safety is of paramount importance.

If, having undergone screening and it is confirmed that the employee has been positively tested for alcohol or drugs, or the employee admits there is a problem, the Company reserves the right to suspend the employee. The Company will decide during the suspension on the appropriate action to take.

If the employee is offered rehabilitation the Company will determine, in consultation with its medical advisor, an appropriate period of time during which the employee will be required to undergo medical treatment. Any time off during this period will be treated as (unpaid leave), (holiday leave) or (leave of absence under the Company's sick leave scheme). *Delete where applicable.

If at any time the employee disobeys an instruction given to them by the Company with regard to the rehabilitation, or suffers a relapse during or following treatment, the Company reserves the right to withdraw support and to proceed to deal with the matter under the terms of the Company's disciplinary procedure.

On the employee's return to work after having been declared fit for work by the Company's medical advisor, there is a recurrence of the original problem, or their performance has been impaired by the problem and they can no longer perform at the required level, the employee will be subject to disciplinary action under the Company's disciplinary procedure.

The Company reserves the right to search any employee or any of the employee's property held on Company premises or any place where the employee will be

carrying out their duties if at any time there are reasonable grounds to believe that the prohibition of alcohol or substances legislation (Misuse of Drugs), or the misuse or abuse of prescription, pharmaceutical or medicinal medication is being or has been infringed.

If you refuse to comply with these search procedures, your refusal will normally be treated as Gross Misconduct and it will entitle the Company to take disciplinary action against the employee concerned.

The Company from time to time will review this policy, and update staff accordingly.

By signing this document, employees confirm that they have been briefed and fully understand the Company's Alcohol and Drug policy and that they agree to abide by it. Compliance with the policy is a condition of employment.

Signed……

Name……

Date……

One copy of this document will be retained by the Company, the other by the employee.

19. SMOKE FREE POLICY

PURPOSE

This policy has been developed to protect all employees, service users, customers and visitors from exposure to second-hand smoke and to assist compliance with the Health Act 2006.
Note: E-cigarette use is not covered by smoke-free legislation and should not routinely be included in the requirements of an organisation's smoke-free policy.

POLICY

It is the policy of [Insert Company Name] that all our workplaces are smokefree, and all employees have a right to work in a smokefree environment. The policy came into effect on Sunday, 1st July 2007. Smoking is prohibited in all enclosed and substantially enclosed premises in the workplace. This includes company vehicles. This policy applies to all employees, consultants, contractors, customers or members and visitors.

IMPLEMENTATION

Overall responsibility for policy implementation and review rests with [Insert Name of Manager]. However, all staff is obliged to adhere to, and support the implementation of the policy. The person named above shall inform all existing employees, consultants and contractors of the policy and their role in the implementation and monitoring of the policy. They will also give all new personnel a copy of the policy on recruitment / induction.

Appropriate 'no-smoking' signs will be clearly displayed at the entrances to and within the premises, and in all smokefree vehicles.

NON-COMPLIANCE

Disciplinary procedures will commence against any member of staff who does not comply with this policy.

Those who do not comply with the smokefree law may also be liable to a fixed penalty fine and possible criminal prosecution.

Employee's Signature…… **Date**…….

Employer's Signature ……..…**Date**……. ….

One copy of this document will be retained by the Company, the other by the employee.

20. TRANSFER AND MOBILITY

An employee may be instructed by their employer to transfer at any time during their period of employment from one site or depot to another, subject to the following:

(i) In the case of a mobile employee, the employer shall have the right to transfer the employee to any site or depot.

(ii) In the case of a non-mobile employee, the employer shall have the right to transfer the employee to any site or depot within reasonable daily travelling distance of where the employee is living, (see (iv) below).

Or

May arrange transfer to any site or depot outside such daily travelling distance by mutual agreement with the employee concerned.

(iii) An employee is mobile for the purposes of (i) above if either:

The employee has been in receipt of subsistence allowance from their employer at any time within one year of the transfer;

Or

The employee voluntarily accepts transfer by mutual agreement under (ii) above.

(iv) A site or depot is within reasonable daily travelling distance for the purposes of (ii) above if transport is provided free by the employer, the employee can normally get from where they are living to the pickup point designated by the employer within one hour, using public transport if necessary.

Or

In any other case, the employee, by using the available public transport on the most direct surface route, can normally get to the site or depot within two hours.

21. PROCEDURE FOR DISCIPLINING AND / OR DISMISSING EMPLOYEE(S)

NOTE: An employer should comply with ACAS's Code on Disciplinary and Grievance Procedures whenever they discipline and / or intend to dismiss an employee.

The Code does not apply in a Redundancy situation or the Non-renewal of a fixed-term contract on its expiry.

Either a Trades Union Representative or a work colleague may accompany the employee to the disciplinary hearing(s).

21.1 It is recognised that the employer has a right to discipline those:

- Who fail to fulfil competently, and to the reasonable instruction(s) of the employer or the hirer, the duties and responsibilities called for by the position they hold; and / or

- Whose behaviour or performance is unsatisfactory; and / or

- Who fail to make appropriate use of the agreed procedure for the avoidance of disputes without recourse to strike or other industrial action of any kind.

It is equally recognised that the employer must exercise this right consistently and with justice and care.

21.2 STANDARD DISCIPLINARY AND / OR DISMISSAL PROCEDURE

The standard dismissal procedure has three main elements:

a) The employer gives the employee a letter detailing what the employee has done or failed to do and inviting the employee to a meeting to discuss the issues in the letter. This must be done before a meeting is convened with the employer so that the employee can prepare a response to the letter.

b) Comprises a meeting, where the employee has the right to be accompanied by either a works colleague or a Trades Union representative. The meeting will be at a reasonable time and convenient location.

After the meeting, the employer must inform the employee of his/her decision. If the employee is found to have failed, breached or not followed any aspect of their duty, he or she may be given a written note (See clause 21.3) setting out: The failure outlined, the improvement that is required; the timescale for achieving this improvement; a review date and any support the employer will provide to assist the employee.

The employer is also entitled to advise the employee that the note may represent the first stage of a formal procedure and that failure to improve might lead to a final written warning being issued and, subsequently, possible dismissal. The employee can appeal the decision within 5 working days.

c) An appeal will be convened, which will be heard by a more senior manager or director, whose decision will be final.

Each step must be taken <u>without</u> unreasonable delay.

The timings and location of the meetings must be <u>reasonable</u>.

Employees <u>must</u> take all reasonable steps to attend the meetings.

21.3 **Discipline shall be applied in accordance with the following procedure at any stage of which the employee has the right of appeal against a disciplinary penalty:**

Note: **<u>Verbal Warnings</u>**

Formal verbal warnings are no longer available to employers as a disciplinary sanction as it was removed from the ACAS Code of Practice. However, employers can continue, if they wish, to informally warn an employee about minor poor performance. This informal warning would not be allowed as part of the formal disciplinary process.

(a) **<u>First Written Warning</u>**

A written warning shall be given to the employee advising that failure to improve within a set period will result in more serious disciplinary action.

(b) **<u>Final Written Warning</u>**

In the event of failure to comply with the terms of the written warning above, the employee may be issued with a final written warning advising that failure to improve within a final period will result in dismissal. The specified final period will normally be no longer than 26 weeks, but a longer period may be specified in appropriate circumstances particularly in the case of a warning relating to Health and Safety.

If the employee fails to comply with the terms of the final written warning, the employee will be dismissed with the appropriate notice in writing. A copy of the written notice of dismissal shall be given to the employee's representative (where applicable).

(c) **<u>Gross Misconduct</u>**

In the event of alleged gross misconduct; the allegation shall be investigated as quickly as practicable, and if possible, within five days. A decision will be taken by the employer after a fair hearing of the employee and, if the employee is a member of a recognised Trades Union, the local representative of that Trades Union or a works colleague within the company.

Such decision may be: that the allegation was unfounded and for a return to normal working; for transfer to another workplace; or for summary dismissal (without notice).

Where the decision is for summary dismissal, it shall be given in writing. If the employee is a member of a recognised Trades Union, a copy of such written

decision for summary dismissal shall be given to the local representative of that Trades Union (Shop Steward).

If it is established to the satisfaction of the employer that an employee has been guilty of misconduct, which would normally justify dismissal but, because of the special circumstances of the particular case, the employer is of the opinion that dismissal is not at that time appropriate, the employer may suspend the employee without pay or may issue a final written warning, or both.

(d) Investigations

The employee shall be advised of any such investigation prior to any hearing, and at the absolute discretion of the employer, may be suspended with pay and / or removed from his immediate place of work. Such pay will be forfeited if the investigation confirms subsequently that summary dismissal is appropriate.

(e) Appeals

The employee concerned may, at any stage in the procedure, appeal against the disciplinary action being taken. The appeal must be lodged in writing within five working days of the disciplinary action having been taken. An appeal hearing will be held as soon as possible after the appeal has been lodged and will be heard by a manager of not less than Director level.

Details of the appeals procedure should be confirmed in writing along with reasons for the dismissal / disciplinary action being taken.

The Director hearing the appeal will review the disciplinary action taken in the light of evidence submitted and any representation made on behalf of the employee. The disciplinary action will then be confirmed, revoked, or appropriately modified. In the event of any disciplinary action being revoked or modified, any loss of earnings incurred by the employee pending the appeal will be made up as appropriate and in line with the decision reached at the appeal hearing. An employee who is in membership of a recognised Trades Union may have an official of their Trades Union or a representative of their choice accompanying the employee at the appeal hearing but the appeal must be lodged and dealt with as described above.

22. GRIEVANCE PROCEDURE

NOTE: An employer should comply with the ACAS Code on Disciplinary and Grievance Procedures whenever an employee raises a grievance.

The Code states that an employee should initially exhaust the Company's grievance procedure BEFORE the employee contacts ACAS to initiate an Employment Tribunal claim.

The employer MUST treat ANY written complaint (from the employee or their representatives) that identifies a potential tribunal claim as triggering the Grievance procedure, regardless whether the word "grievance" is used or whether it complies with any contractual grievance procedure and regardless of the employee's intentions.

The employee may be accompanied to the hearing(s) by either a Trades Union Representative or a work colleague.

22.1 These provisions are applicable to general plant hire operatives, drivers and mechanics who are employed by the member firms of the CPA and whose Contract of Employment refers specifically to this document. The CPA accepts that the object of this procedure shall be to provide suitable measures for the settlement of disputes at all levels and to maintain normal working during the process.

22.2 Either the employer or the employee(s) concerned may institute discussions under the standard grievance procedure in rule 22.3.

22.3 STANDARD GRIEVANCE PROCEDURE

It is important that if the employee feels dissatisfied with any matter relating to their work, they should first try to resolve it by informal discussion with your immediate supervisor. Often this is all that will be necessary to deal satisfactorily with the problem but, if the employee considers it sufficiently serious that they wish it to be formally investigated and recorded the employee will need to follow the 3-step grievance procedure. In this case, the employee has the right to be accompanied at steps 2 and 3 by either a works colleague or a Trades Union representative. The procedure is as follows:

(a) The employee writes to their manager explaining the grievance and asking for a meeting with them. This will be arranged at a reasonable time and in a suitable location.

(b) The meeting will consist of discussing the employee's grievance. Afterwards, the manager will inform the employee of their decision. The employee has the right to appeal against the decision within 5 working days.

(c) The appeal's meeting will be heard by the Managing Director, or an appointed director whose decision is final and concludes the procedure.

The employee has the right to pursue the alleged breach of their statutory or contractual rights before a civil court or employment tribunal. The employee does not need to resign in order to do so and will not be victimised or subject to any other detriment for asserting their rights by this means. The employee also has the right to seek intervention of an ACAS appointed conciliation officer.

23. LAY-OFFS / SHORT-TIME WORKING

The Company reserves the right to lay-off any employee or put them on short-time working where the needs of the Company's business make this necessary. The employee will be paid a Statutory Guarantee Payment **£35.00** per day for a maximum of 5 days in any 13-week period) during a period of any lay-off or short-time working.

24 REDUNDANCY

Note: The implementation of the Employment Equality (Age) Regulations 2006 which came into effect on the 1st October 2006 removed the upper and lower age thresholds for an employee qualifying for redundancy.

The employer **must** offer suitable alternative work to the employee before the employee is made redundant, if work is available. If no suitable alternative work is available, then the employer **must** pay redundancy to the employee. The employee must have been continuously employed by the company for at least two years, to qualify for a redundancy payment.

The figure of £643 for the redundancy calculation is the **statutory maximum** an employee may receive. If the employee's weekly wage is below this sum, then the employee's redundancy calculation is based on the lower figure. However, should the employee's contract of employment state a higher redundancy figure than the statutory maximum, then the employer is obligated to pay the higher contractual figure.

The employee's statutory redundancy entitlement will be based on the **employee's length of service with the Company. The maximum length of service is 20 years.**

Employee aged 21 or below receives ½ x the number of **full** years at the Company x (up to a maximum of **£700**).

An Employee aged between 22 and 40 receives 1 x the number of **full** years at the Company x (up to a maximum of **£700**).

An Employee aged 41 or over will receive 1½ x the number of **full** years at Company x (up to a maximum of **£700**).

If an employee crosses an age range whilst working at the Company, then their redundancy entitlement will be divided between those age ranges.

An employee's Notice period is outlined in Clause 25.

If an employee obtains work elsewhere whilst working their Notice and is granted early leave by the employer. Then the employer is still obligated to pay the employee's redundancy money.

The employee's Notice money will end once the employee has left. The employee will not receive the balance of his / her Notice money that still remains.

25. NOTICE FOR TERMINATION OF EMPLOYMENT

The period of notice for termination of employment to be tendered by either employer or employee shall be:

(a) During the first five working days of continuous employment with the same employer (hereinafter referred to as "continuous employment") - two hours' notice to expire at the end of normal working hours on any day.

(b) During the remainder of the first three weeks (or part weeks ending with Saturday) of continuous employment - one day's notice (of twenty-four hours) to expire at the end of normal working hours on a Friday.

(c) On and from the commencement of the fourth week of continuous employment - one week's notice to expire at the end of normal working hours on any day.

- In addition, the period of notice to be given by the employer shall be:

(d) Not less than one week for each full year of continuous employment to a maximum of 12 weeks' notice.

(e) Not less than twelve weeks if the period of continuous employment is twelve years or more; and

(f) That the notice to be given by the employee who has been continuously employed for one month or more shall not be less than one week.

Provided always that in computing periods of employment, for the purpose of the foregoing sub-clauses and of sub-clause (i) below, a week (ending with Saturday) shall not count if in that week, or any part of that week, the employee takes part in a strike as defined in the Employment Rights Act 1996.

Provided further:

(i) That if, for any cause (other than inclement weather) after the expiry of the first six working days and before the commencement of the fourth week of continuous employment, work ceases on the section of the work on which an employee has been engaged, employment may, if no alternative work is available be terminated at the option of the employer at one day's notice (of twenty-four hours) expiring at the end of normal working hours on any day.

(ii) That the employment may be terminated at any time, either:

  (a) By mutual consent, which should preferably be expressed in writing; or

  (b) By the payment, in lieu of the prescribed period of notice, of the amount to which the operative would have been entitled under the Employment Rights Act 1996 if notice had been given.

(iii) Notwithstanding the holiday conditions (rule 12), an employee, who is not under notice, terminates their employment contract other than by the terms and

conditions prescribed, that employee shall not have any holiday stamp / accrual for the calendar week the employment is irregularly terminated.

(iv) That, in cases of gross misconduct, an employee may be summarily dismissed following the procedure laid down in rule 21.3 (d).

(v) That, the employer's payment liability will be limited to the length of notice (Rule 25 a - f) or payment in lieu in terminating an employment contract, together with any payments for injury or sickness and any holidays that the employee may have accrued whilst actually working for the employer.

(vi) That, in the event of an employee registering for unemployment benefit and the contract of employment not having been terminated by either party, the employee subsequently resuming with the same employer, the employment shall be deemed to have been continuous.

26. EMPLOYEE'S RETIREMENT

Note: The Default Retirement Age (DRA) was removed as of the 1st October 2011.

In removing the general default retirement age, the government had indicated that nobody should be deprived of the opportunity to work because they had reached a particular age.

It is direct age discrimination to require or persuade a worker to retire because of their age unless the employer can objectively justify doing so.

In most circumstances, it will not be objectively justifiable for the employer to set their own retirement age now that the default retirement age has been removed. To objectively justify setting a retirement age, the employer would need to be able to produce convincing evidence to show, in relation to the particular job:

a) That the employer is trying to achieve a legitimate aim.

b) That the policy of setting a retirement age is a proportionate way of achieving that aim, and the actual age chosen for retirement is also proportionate.

More information on this topic can be found on the ACAS website.

If a worker is having difficulties performing their role, it may be possible to offer them a transfer to something which is less demanding. If this is not possible, employers should follow normal procedures for addressing concerns about a worker's capability.

27. ABSENCE FROM WORK DUE TO SICKNESS OR INJURY

27.1 Relationship of Company Sick Pay with Statutory Sick Pay

Under the Social Security and Housing Benefits Act 1982, there is an entitlement to Statutory Sick Pay (SSP). Any payment due under paragraph 27.4 of this rule shall be increased by an amount equivalent to any SSP that may be payable in respect of the same day of incapacity for work under Regulations made under that Act. These are referred to elsewhere in this Rule as "SSP Regulations".

27.2 Scope

This rule applies to all adult employees, i.e. all operatives aged 18 years and over.

27.3 Qualifying Days

For the purpose of both this rule and the SSP Regulations, the "qualifying days" that shall generally apply in the industry are Monday to Friday in each week.

27.4 Company Sick Pay (Not Mandatory – Example Only)

When a Company Sick Pay scheme is in place an employee who during employment with an employer is absent from work on account of sickness or injury shall, subject to satisfying all the conditions set out in paragraph 27.6, (see below), be paid for each qualifying day of incapacity for work the appropriate proportion of the weekly rate detailed in the Company Sick Pay scheme.

27.5 Notification of Incapacity for Work

(a) An employee shall not be entitled to payment under this rule unless, during the first qualifying day in the period of incapacity, their employer is notified that the employee is unable to work due to sickness or injury and when the incapacity for work started. Thereafter, the employee shall, at intervals not exceeding one week throughout the whole period of absence, keep the employer informed of their continuing incapacity for work.

(b) Where the employer is notified later than this rule requires, the employer may nevertheless make payment under the rule if satisfied that there was good cause for the delay.

27.6 Certification of Incapacity for Work

The whole period of absence from work shall be covered to the satisfaction of the employer by a certificate(s) of incapacity for work. For the first seven (7) consecutive days of sickness absence including weekends and public holidays, a self-certificate will normally suffice for this purpose. Fit Note(s) given by a registered medical practitioner must cover any additional days of the same period of absence.

NOTE: For the purpose of this paragraph, "self-certificate" means a signed statement made by the employee, in a form that is approved by the employer, that they have been unable to work due to sickness or injury for the whole period specified in the statement.

27.7 **Qualifying Conditions for Payment**

An employee shall not be entitled to the payment referred to in paragraph 27.4 unless the following conditions are satisfied:

(a) The incapacity has been notified to the employer in accordance with paragraph 27.5.

(b) The requirements of paragraph 27.6 to supply a certificate(s) of incapacity for work have been complied with.

(c) The first three qualifying days (for which no payment shall be due) have elapsed in each period of absence.

(d) None of the qualifying days concerned is a day of annual or public holiday granted in accordance with the provisions of this document.

(e) The incapacity does not arise directly or indirectly from insurrection or war, attempted suicide or self-inflicted injury, the employee's own misconduct, any gainful occupation outside working hours or participation as a professional in sports or games.

(f) The employer has employed the employee for four or more weeks.

(g) The limit of payment as described in paragraph 27.8 has not been reached.

27.8 **Limit of Payment**

If the employee has been employed by the employer for at least one year, the number of days of absence for which they are entitled to payment under this rule (27.8) shall be a maximum of 50 days. If the employee has been employed for less than one year the maximum number of days shall be reduced pro rata (calculated to the nearest day).

In the case of an employee who is not covered by the B and C E Benefits Schemes, the limit of payment shall be determined as follows:

(i) The maximum number of days of absence for which an employee shall be entitled to payment under this rule in any tax year shall be 50.

(ii) Where an employee enters employment with an employer after the commencement of the tax year, the aforesaid maximum shall be pro rata to the nearest full day to reflect the remaining period in the tax year.

27.9 **Record of Absence**

Each employer shall keep a record of days absent for which payment had been made under this rule.

28. DEATH AND ACCIDENT BENEFIT SCHEME

(THIS IS NOT A MANDATORY REQUIREMENT, BUT AN EXAMPLE FROM THE B&CE SCHEME ONLY)

Where a Death and Accident Benefit Scheme is in place an employee is entitled to be provided by their employer with death benefit cover of £40,000. [Subject to other factors within the scheme, including contributions made, this may rise to £240,000.] With accidental injury, benefit cover as follows:

Qualifying Injury

Loss of sight of both eyes	£40,000
Loss of sight of one eye	£20,000
Loss of hearing in both ears	£20,000
Loss of hearing in one ear	£10,000
Loss of hand or foot	£40,000
Loss of arm or leg	£40,000
Loss of a big toe	£2,000
Loss of any other toe	£1,000
Loss of a thumb	£5,000
Loss of an index finger	£5,000
Loss of any other finger	£1,500

Total disablement – payment varies depending on whether temporary or permanent

£7,500 to £40,000 less any payment previously made in respect of the total disablement. [Total disablement - payment varies on whether temporary or permanent.]

The above scheme (or similar) is the responsibility of the employer to arrange and pay for where applicable.

******IMPORTANT NOTE TO EMPLOYERS******

Notwithstanding the above, Employers Liability Insurance is a compulsory class of insurance (Employer's Liability (Compulsory Insurance) Act 1969).

It indemnifies the employer against compensation claims from an employee for ill health arising out of the injury or negligence and / or breach of statutory duty of the employer. If in doubt, contact your insurance broker.

29. SAFETY REPRESENTATIVES AND SAFETY COMMITTEES

It shall be recognised by the employer that under the Health and Safety at Work Act 1974, Health and Safety (Consultation with Employees) Regulations 1996 (and any subsequent amendments), provision is made for the appointment of safety representatives to represent employees; whether appointed by a recognised trades union or by any other group of employees. Provision is also made for the establishment of safety committees. [Notes for Guidance on this subject are issued by the Health and Safety Executive and is available from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 6FS (Tel: 01787 881165, Fax: 01787 313995. Further, advice on this subject is available from the HSE Info line: 08701 545500.]

29.1 **Place of Work**

For the purposes of the Health and Safety at Work Act provisions described above, the employee's place of work shall be taken as the plant hire depot.

29.2 **Outside Work Sites**

At all places of work outside the plant hire depot, ("outside work sites"), the authority and functions of the site safety representative(s) or safety committee(s) recognised by the contractor(s) and union(s) on those sites, shall be accepted and shall apply.

30. WELFARE

It is agreed that the employer will make adequate welfare provisions at the plant hire depot in accordance with the requirements of the Health & Safety at Work Act 1974, Workplace (Health and Safety and Welfare) Regulations 1996 and any subsequent legislation.

31. DISCRIMINATION

The employee is protected against both direct and indirect discrimination regarding the Equality Act 2010 and the Enterprise and Regulatory Reform Act 2013 covers:

- Age
- Disability and Equality
- Equal Pay
- Gender Reassignment
- Race / Caste
- Religion and Belief
- Sex
- Sexual Orientation

Any grievance concerning the employee should be raised under Rule 22.

32. FLEXIBLE WORKING HOURS

The employee has the right to give a **written request** to their employer to change their conditions of employment that may allow the employee flexible working arrangements.

The employee must have worked for the organisation for at least twenty-six weeks at the time of the request.

The employer is **required** to give written reasons to the employee if the employer cannot justify changing the employee's conditions of employment.

Information
This right of request does NOT give an automatic right to the employee to have their conditions of employment changed. Failure to provide written reasons to the employee when refusing to amend the conditions of employment could leave the employer vulnerable if the matter was referred to an Employment Tribunal.

33. PAID PATERNITY LEAVE

The employee is entitled to receive up to two week's paid paternity leave of **£184.03** per week or 90% of their average weekly wage at the time, whichever is the lower of those amounts.

To qualify, the employee must have, or expect to have, responsibility for the child's upbringing, be the biological father of the child or the mother's husband or partner **AND** have worked continuously for the employer for 26 weeks ending with the 15th week before the baby is due.

Paternity leave cannot start until the baby is born. The leave can be taken as one block of one week, or two weeks but not individual days, nor separate weeks. The right to paternity leave ends after the 56th day (8th week) after childbirth.

34. PARENTAL / MATERNITY RIGHTS

The employer shall allow all rights the employee has under the Work and Families Act 2006, Employment Act 2002, Maternity and Parental Leave Regulations 1999, Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999, the Employment Relations Act 1999, the Employment Rights Act 1996 and the Employment Rights (Northern Ireland) Order 1996 together with any subsequent legislation.

The method of any grievance concerning the employee should be raised under Rule 22.

35. STAKEHOLDER PENSIONS

With effect from the 8th October 2001, the employer is obliged to give employees, aged 18 years of age or older, access to the company's stakeholder pension scheme within 1 year of the employee joining the firm.

Exceptions to a stakeholder pension are as follows:

(i) If the employer employs less than five employees. **Or**

(ii) If the employee has not been with the firm at least three months. **Or**

(iii) If the employer has already offered an occupational pension scheme. **Or**

(iv) If the employee cannot join the occupational scheme because its rules do not admit people if they are under 18 or they are within five years of the scheme's normal retirement age. **Or**

(v) If the employee could have joined the occupational scheme but declined. **Or**

(vi) Those employees whose earnings fall below the minimum National Insurance lower earnings limit. **Or**

(vii) Those employees who are restricted by Her Majesty's Revenue and Customs (HMRC) e.g. employees who do not normally live in the UK.

36. WORKPLACE PENSIONS – EMPLOYEE "AUTOMATIC ENROLMENT"

Note: **The employer will need to speak to a Pensions' Advisor or the Pensions Regulator to obtain qualified advice on this complex subject.**

Employers who do not already offer a pension scheme to the workforce will have to provide an employees' pension scheme, and employees will be 'automatically enrolled' into it.

Note: The staging date that the employer **must** comply with is dependent on the size of the workforce. [Check with the Pensions Regulator or an independent Pensions' Advisor to ascertain what your staging date is.]

The employer **must** automatically enrol all new employees into the scheme, if the employee is:

- Aged between 22 and the relevant State Pension age; and,
- Earns at least £10,000 a year; and,
- Works in the UK.

If the employer already provides a stakeholder pension scheme for their workforce, then the employer **must** allow any "new" employees to join the scheme.

Note: The employer **must** check with their Pensions' Advisor, to ascertain whether the existing stakeholder pension scheme, (if one is in place), can be used to "Automatically Enroll" new employees.

37 TRAINING AGREEMENT

In order to protect the employer's investment in training, where applicable, it is recommended that the employee enters into a training agreement with the employer.

The employee will contribute towards the cost of training should the employee terminate his/her employment within two years of completing the training. This contribution will be on a sliding-scale basis on the period that has elapsed since the training was completed.

Information

The employer must obtain the employee's signature on the Training Agreement to authorise the deduction of monies outstanding from the employee's final wages / holiday accruals.

A sample Training Agreement can be obtained from the CPA's website.