

Matters to be covered in the Lease of a Racehorse

- Identify the Lessor and the Lessee
- What is the interest to be leased (i.e. is it a 100 per cent interest in the horse concerned or less?)
- What is the duration of the lease (when does it commence and expire)?
- What rental is payable? (If there is essentially no rent, it is sometimes best to state that the rent is a nominal sum (such as £1) so as to demonstrate that there is consideration for the lease. (Contracts are only binding and enforceable if there is consideration).
- Who insures the horse? If it is the Lessee, the lease must contain provisions enabling the Lessor to see proof that the insurance is in place and that the Lessor will be the loss payee in the event of a claim.
- Does the Lessee pay for all costs associated with the racing and training of the horse during the lease or a proportion which is less than 100 per cent? (Normally, routine veterinary care for the horse would be an element of the expenditure associated with the day-to-day care of the horse during the lease. However, non-routine veterinary surgery (e.g. colic surgery) might be a cost for the Lessor's account as this kind of veterinary care is referable more to the residual capital value of the animal rather than the day-to-day maintenance of a serviceable racehorse).
- Does the Lessee keep 100 per cent of all prize money or a different proportion?
- What stipulations are made as to who trains the horse?
- Are there any circumstances in which the term of the lease can be brought to an end early or extended? If so, what are they?
- What effect on the arrangements would the death of the horse, the Lessor or the Lessee have?
- Are there any pre-agreed remedies for breach by either party of the terms of the lease?
- There should be a prohibition against running/entering the horse in Claimers/Sellers without the Lessor's express consent. (Otherwise the Lessees may not be able to return the horse at the end of the lease).
- It is quite common for the Lessee to have an option of buying the horse at any time during or at the expiry of the lease either for a pre-agreed fixed price or in accordance with a formula which will determine the price.
- It is good practice for the Lessor to state that it has given no assurances concerning the horse or its suitability for the lease and for the Lessee to acknowledge that it has not relied on any assurances by the Lessor. The Lessee should expressly indemnify the Lessor against any third party claims arising in connection with the horse during the lease.
- Each party should assure the other that no third party rights or claims will arise in respect of the horse during the period of the lease.
- It is typical in legal documents for a number of general administrative clauses to be incorporated relating to the service of notices by one party on the other and other matters which are inclined to be described as "boiler plate" but tend to form a standard part of documents precisely because they prove themselves important and useful from time to time.
- If the horse is being trained overseas or if one of the parties is other than resident in England and Wales, there should be a law and jurisdiction clause.

N.B. The drawing up of contracts is not something which should be handled by people who lack the relevant experience or expertise. It is recommended that, before any lease of a racehorse is entered into, the draft documentation intended to regulate the relationship between the parties should have been drawn up or checked by a solicitor.