

## LABOUR SERVICE PROVIDER CHECKLIST

The fruit industry has recognised the need to encourage the participation of labour service providers working in the fruit industry in its ethical trade programme. This is in line with its goals to manage its risk more effectively and to support ongoing improvement of workplace conditions. The industry supports labour service providers committing themselves to the principles contained in the standard. Labour service providers and producers who contract their services, are jointly liable for ensuring that the fair labour practices are complied with regardless of whether workers are employed directly by the producer or by the labour service provider. It is therefore the responsibility of the producer to ensure that their labour service provider has appropriate systems in place in order to demonstrate compliance.

The industry has developed a simple Checklist for measuring compliance of the labour service providers as a support for producers who use the services of labour service providers. However, if a labour service provider submits to a third party ethical audit (under the Fruit SA ethical trade programme) and allows the producer access to the audit results, this should be sufficient evidence of compliance for the producer and there should not be a need to complete the Checklist.

### ***Section 2: Management Systems –***

#### ***Principle Statement:***

***Senior management shall define the organizations' policy for Fair Labour Practises in the work places under its' direct control. The policy will include commitment from senior management to recognize, implement and uphold the principles of Fair Labour Practises and that it will take all necessary measures to ensure that this policy is communicated to and understood by the workers.***

<b>CODE REQUIREMENT</b>	<i>BENCHMARK</i>
<b>2.1 Is the Labour service provider a registered legal entity?</b>	The labour service provider has a registration number – e.g. Company, Close Corporation, partnership or sole proprietor
<i>GUIDANCE NOTES:</i>	
<b>2.2 Does the Labour service provider have a ethical trade policy in place?</b>	There is policy in place that covers all of the requirements of the FSA Ethical Trade program Standard. This is signed by the labour service provider.
<i>GUIDANCE NOTES: Ethical Trade Handbook page 9</i>	
<b>2.3 Has the labour service provider signed a service provider contract that includes a commitment to comply with the principles of the Fruit South Africa ethical trade program AND legislation?</b>	A service contract has been signed by the labour service provider which includes his/her commitment to comply with the principles of the FSA ethical trade program standard.
<i>GUIDANCE NOTES:</i>	
<b>2.4 Has the labour service provider performed any kind of</b>	There is some form of assessment conducted (this could be a

<p><b>self assessment that identifies non-conformances and areas for improvement in terms of the FSA ethical trade standard?</b></p>	<p>self-assessment or part of a formal assessment performed by a labour consultant/labour service provider organization) that identifies non-conformances, areas for improvement AND includes a corrective action plan.</p>
<p><b><i>GUIDANCE NOTES: Ethical Trade Handbook page 23 - 24</i></b></p>	
<p><b>2.5 Can the labour service provider demonstrate awareness of applicable legislation?</b></p>	<p>If the labour service provider has an office, a summary of the BCEA, SD13, OHS Act and EEA must be visible to employees OR is a subscriber to a service provider who provides advice in connection with this e.g. labour consultant; membership with labour service providers association. Alternatively, training records demonstrate that the labour service provider has attended training on applying the law in the workplace.</p>
<p><b><i>GUIDANCE NOTES:</i></b></p>	
<p><b>2.6 Is the labour service provider registered with SARS?</b></p>	<p>Labour service providers must register their employees for UIF, SDL and VAT. It has become the employer's responsibility to make certain the staff is registered for VAT e.g. UIF; SDL; VAT etc.</p>

***GUIDANCE NOTES:***

**2.7 Is the labour service provider registered with COIDA?**

The relevant number/certificate is available that demonstrates current registration with COIDA and all dues have been paid.

***GUIDANCE NOTES: Ethical Trade Handbook page 69***

**2.8 Can the labour service provider provide records of all people employed?**

There is a record keeping system in place that maintains employee records for a minimum of 5 years. This can be held on his/her behalf by a labour service provider association.

***GUIDANCE NOTES:***

***Section 3: Forced; Bonded & Indentured Prison Labour –***

**Principle Statement:**

**The Company's senior management shall take all necessary steps to ensure that employment is freely chosen and that the individuals' right to terminate employment is upheld**

<b>CODE REQUIREMENT</b>	<b>BENCHMARK</b>
<b>3.1 Have workers been given contracts that include a termination clause?</b>	A contract is available for each worker which clearly states the requirements for termination of service if an employee wants to resign.
<b><i>GUIDANCE NOTES: Ethical Trade Handbook page 19</i></b>	
<b>3.2 Have workers been made aware of their rights and responsibilities in terms of termination of service?</b>	Attendance registers and/or training records are available that demonstrate that the contents of the contracts, including the termination clause, have been explained to the workers. This could include details of informal information sessions held in the workplace.
<b><i>GUIDANCE NOTES: Ethical Trade Handbook page 19</i></b>	
<b>3.3 Do workers have to lodge deposits or their identity</b>	Workers are normally interviewed to verify this information but if this is not possible, then documentary checks should at

**documents in order to secure employment?**

least demonstrate that the labour service provider does not keep original identity documents and the employer must give the farm worker a statement of the breakdown of their wages and hours worked

*Pay slip must contain the following information:*

- *employer's name and address*
- *farm worker's name and occupation*
- *Period in respect which payment is made*
- *wage rate and overtime rate*
- *number of ordinary hours worked by farm worker during that period*
- *number of overtime hours worked*
- *number of hours worked by farm worker on a paid holiday or Sunday*
- *farm worker's wage*
- *detail of any other pay arising out of the farm worker's employment*
- *details of any deduction*
- *employer's registration number with UIF and employee's contribution to the fund*
- *actual amount paid to the farm worker*

**GUIDANCE NOTES: Ethical Trade Handbook pages 15 - 16**

**3.4 Are workers informed about the terms and conditions of employment BEFORE they are appointed?**

Workers are normally interviewed to verify this information but if this is not possible, then there should be a documentary record in place to show that workers received Employer must supply the farm worker with written particulars of employment.

***GUIDANCE NOTES:***

***Section 4: Child Labour & Young Workers***

***Principle Statement:***

**Senior Management shall not engage the services of children and shall implement all measures necessary to prevent children from being employed directly or indirectly. Where child labour is discovered, senior management shall take all measures necessary to remediate the situation taking into account the best interests of the child. Where young workers (between the ages of 15 and 17 years) are employed, senior management shall ensure that their working**

<b>conditions comply with legal requirements.</b>	
<b>CODE REQUIREMENT</b>	<i>BENCHMARK</i>
<b>4.1 Can the labour service provider provide evidence of age for all workers?</b>	The labour service provider has copies of I.D's for all workers.
<i>GUIDANCE NOTES: Ethical Trade Handbook page 30</i>	
<b>4.2 Does the labour service provider have a policy on the minimum age of workers?</b>	A policy is available that clearly indicates the MINIMUM age of workers entitled to work for the labour service provider.
<i>GUIDANCE NOTES: Ethical Trade Handbook page 30</i>	
<b>4.3 Are young workers (15 to 17 years) employed?</b>	The labour service provider has copies of I.D's for all workers. Copies of ID of children between 15-18 years must be kept for 3 years.
<i>GUIDANCE NOTES: Ethical Trade Handbook page 15</i>	
<b>4.3.a If the answer to 4.3 above is yes, have the young workers' contracts been signed by their legal guardians AND do the terms and conditions of their employment</b>	The contracts of young workers are signed by legal guardians and the working conditions in the contracts comply with law.



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**GUIDANCE NOTES: Ethical Trade Handbook page 30 - 34**

**Section 5: Freedom of Association & Collective Bargaining**

**Principle Statement:**

Senior Management shall recognize and respect the individuals' rights to freedom of association and collective bargaining without interference and shall not discriminate against or otherwise prejudice workers or their representatives.

CODE REQUIREMENT	BENCHMARK
5.1 Does the labour service provider have a documented policy regarding freedom of association and workers right to collective bargaining?	There is policy in place that states the labour service providers' position in terms of workers' right to associate and bargain collectively.

**GUIDANCE NOTES: Ethical Trade Handbook page 40 - 46**

5.2 Are any workers members of recognized trade unions?	There are records that demonstrate that some/all workers are members of trade unions.
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<b>GUIDANCE NOTES:</b>	
<b>5.3 If no unions are represented, is there any other form of worker representation that facilitates communication between workers and management?</b>	There is documentary evidence that workers have elected representatives who represent their interests. For example, this could be a workers committee with elected members that represent the interests of the workers with the labour service provider.
<b>GUIDANCE NOTES:</b>	
<b>5.4 Are workers informed of their rights in terms of freedom of association and the right to collective bargaining?</b>	There is documentary evidence to show that the labour service provider has informed workers of this right. For example, this could include a record of an information session or meeting that was held where this right was explained to workers.
<b>GUIDANCE NOTES:</b>	

***Section 6: Discrimination, Harassment & Abuse***

**Principle Statement:**

Senior Management shall take appropriate measures to ensure that, as far as is reasonably practicable, the workplace is free from all forms of discrimination, that there are systems in place that provide appropriate protection for workers and that all workers are assured of equal opportunities.

<b>CODE REQUIREMENT</b>	<b>BENCHMARK</b>
<b>6.1 Does the labour service provider have a copy of the Employment Equity Act? Please note that there are more stringent requirements in terms of the EEA which the labour service provider as an employer must comply with if he has more than 150 employees or has a turnover of more than R2 000 000 p/a.</b>	The labour service provider has a copy of the EE Act available.

***GUIDANCE NOTES: Ethical Trade Handbook page 51***

<p><b>6.2 Is there a grievance mechanism in place through which workers are able to raise a complaint?</b></p>	<p>There is a grievance procedure is in place.</p>
<p><i><b>GUIDANCE NOTES: Ethical Trade Handbook page 42</b></i></p>	
<p><b>6.3 Have workers been informed of their rights in this regard and how to use the grievance procedure?</b></p>	<p>There are training records and/or attendance registers which show that workers have been informed about the grievance procedure and how to use it.</p>
<p><i><b>GUIDANCE NOTES:</b></i></p>	
<p><b>6.4 Does the labour service provider have a policy on Sexual Harrassment?</b></p>	<p>The labour service provider has a sexual harassment policy which has been explained to the workers.</p>
<p><i><b>GUIDANCE NOTES: Ethical Trade Handbook page 62</b></i></p>	
<p><b>6.5 Does the labour service provider have a documented disciplinary procedure and has this been explained to the workers?</b></p>	<p>The labour service provider has a disciplinary procedure in place and there are training records and/or attendance registers which show that workers have been informed about the disciplinary procedure and how to use it.</p>

<b>GUIDANCE NOTES: Ethical Trade Handbook page 62</b>	
<b>6.6 Does the labour service provider keep documented records of ALL disciplinary cases?</b>	There is documentary evidence detailing disciplinary cases (for example, records of hearings that have taken place).
<b>GUIDANCE NOTES:</b>	

**Section 7: Health & Safety**

**Principle Statement:**

Senior Management shall ensure that the working environment and facilities provided as part of the workplace (including housing and accommodation facilities if these are provided) are safe and hygienic and shall take appropriate measures to prevent accidents and injury in the workplace.

<b>CODE REQUIREMENT</b>	<b>BENCHMARK</b>
<b>7.1 Has the labour service provider undertaken a risk assessment that covers all activities undertaken by his/her employees?</b>	There is a documented risk assessment that covers ALL activities undertaken by the labour service provider.

<b><i>GUIDANCE NOTES: Ethical Trade Handbook page 72 / 119</i></b>	
<b>7.2 Is there evidence that the risk assessment has been implemented?</b>	The labour service provider should have records, for example, training records, that show that training for workers, such as spray operators has taken place which demonstrates that risks linked with these jobs are being managed.
<b><i>GUIDANCE NOTES:</i></b>	
<b>7.3 Have all workers received basic health and safety induction awareness training?</b>	There are training records and/or attendance registers available to demonstrate that all workers have received induction training.
<b><i>GUIDANCE NOTES: Ethical Trade Handbook page 74</i></b>	
<b>7.4 Does the labour service provider have appointed health &amp; safety representatives &amp; first aiders as required by law? If the labour service provider has more than 20 employees he must have 1 Health and Safety Representative for every 50 employees.</b>	There are letters of appointment showing that H&S reps have been appointed, and current and valid certificates for first aiders.
<b><i>GUIDANCE NOTES: Ethical Trade Handbook page 73, page 83</i></b>	
<b>7.5 Do workers receive protective clothing (where applicable) and is this free of charge?</b>	Purchase orders / invoices are available as well as visual evidence that workers have received protective clothing and are using it.

<b><i>GUIDANCE NOTES: Ethical Trade Handbook page 76</i></b>	
<b>7.6 Does the labour service provider provide health checks where applicable?</b>	There are reports available showing that health checks have been provided for affected workers, for example, blood tests for spray operators.
<b><i>GUIDANCE NOTES:</i></b>	
<b>7.7 Have workers received appropriate training for their jobs?</b>	Training records are available for formal training (e.g. fork lift drivers) and informal training (e.g. fruit picker) given to workers.
<b><i>GUIDANCE NOTES: Ethical Trade Handbook page 34</i></b>	
<b>7.8 If machinery/equipment is used to do the job, is it safe to use?</b>	Visual inspection indicates that machinery and equipment is in good working order and there are maintenance records and pre-service check records available.
<b><i>GUIDANCE NOTES:</i></b>	
<b>7.9 Where transport is provided, is it safe and is the driver/operator appropriately trained?</b>	Visual inspection indicates that vehicles used to transport workers are in good condition and are safe. There must be proof that the driver is legally allowed to driver, for example, there is a PDP licence.
<b><i>GUIDANCE NOTES: Ethical Trade Handbook page 86</i></b>	

***Section 8: Wages, Benefits & Terms of Employment***

**Principle Statement:**

**Senior Management shall ensure that workers receive a fair wage & benefits which, as a minimum, meet legislative requirements. In addition, the employment relationship shall be formal; recognized; documented and compliant with national law and convention.**

<b>CODE REQUIREMENT</b>	<b>BENCHMARK</b>
<b>8.1 How are workers paid and how frequently?</b>	There are payslips that indicate how workers are paid and when. If employees are paid in cash or cheque they must receive such payment during working hours, at the workplace in a sealed envelop



**GUIDANCE NOTES: Ethical Trade Handbook page 98**

**8.2 Does each worker receive a pay slip for each period and do the payslips contain the information as prescribed by law?**

There are copies of payslips available for each worker and for each pay period that contain all relevant information as laid out in SD 13 Section 6.

**GUIDANCE NOTES: Ethical Trade Handbook page 98**

**8.3 Does the labour service provider pay at least the minimum wage?**

Payslips shows that the minimum wage is paid to each worker.

**GUIDANCE NOTES: Ethical Trade Handbook page 93**

**8.4 Does the labour service provider make deductions (e.g. for loans/advances) and if so, are these done in accordance with legal requirements?**

Payslips shows that deductions are legally done according to SD 13 Section 8.

**GUIDANCE NOTES: Ethical Trade Handbook pages 17; 99 - 101**

**8.5 Is overtime paid in accordance with the law?**

Payslips show that payment for overtime – including Sundays and Public Holidays – is done in accordance with legal requirements.

**GUIDANCE NOTES: Ethical Trade Handbook page 18 / 120**

<b>8.6 Do employees receive leave pay?</b>	Wage records show that workers receive paid leave.
<i><b>GUIDANCE NOTES: Ethical Trade Handbook page124-127</b></i>	
<b>8.7 Do workers receive sick leave as per legal allowances?</b>	Wage records show that workers are paid for sick leave.
<i><b>GUIDANCE NOTES: Ethical Trade Handbook page125</b></i>	
<b>8.8 Do workers receive maternity leave?</b>	Wage records show that workers are paid for sick leave.
<i><b>GUIDANCE NOTES: Ethical Trade Handbook page 127</b></i>	
<b>8.9 Do workers have a contract of employment?</b>	There is contract of employment for each employee and the contents of the contract comply with SD 13 Section 9.
<i><b>GUIDANCE NOTES: Ethical Trade Handbook page 94-96</b></i>	
<b>8.10 Have workers been made aware of the contents of their contracts?</b>	Training records and/or attendance registers demonstrate that the labour service provider has explained the terms and conditions of employment in the contract to the workers.
<i><b>GUIDANCE NOTES: Ethical Trade Handbook page 94 - 96</b></i>	

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***Section 9: Working Hours***

**Principle Statement:**

**Senior Management shall ensure that normal working hours are in accordance with applicable legislation and shall implement systems to accurately monitor and record hours worked.**

<b>CODE REQUIREMENT</b>	<b>BENCHMARK</b>
<b>9.1 Does the labour service provider keep accurate records of hours worked for each worker?</b>	There are time and attendance registers to show what hours are worked.
<b><i>GUIDANCE NOTES: Ethical Trade Handbook page 118 - 123</i></b>	
<b>9.2 Do the records reflect overtime hours worked?</b>	Payslips and time sheets show overtime hours worked.

***GUIDANCE NOTES: Ethical Trade Handbook page 18 / 120***

**9.3 Do workers who work at night receive night allowance?**

Payslips show that night allowance is paid where applicable.

***GUIDANCE NOTES: Ethical Trade Handbook page 124***

**9.4 Where averaging of working hours applies, is it done in accordance with the law?**

Time sheets show that hours worked comply for BOTH time periods – i.e. shorter hours worked and longer hours worked.

***GUIDANCE NOTES: Ethical Trade Handbook page 123***