



Public Sector Remuneration Tribunal Act 1992

No. 6, 1992

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(No. 2, 2015)
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Amendment Ordinance 2015 (No. 2, 2015))

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PUBLIC SECTOR REMUNERATION TRIBUNAL ACT 1992

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Public Sector Remuneration Tribunal Act 1992

An Act to establish a Public Sector Remuneration Tribunal, and for related purposes.

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows —

Short title

1. This Act may be cited as the *Public Sector Remuneration Tribunal Act 1992*.

Commencement

2. (1) This Act comes into operation on a date, or dates, fixed by the Administrator by notice published in the Gazette.

(2) The Administrator may fix different dates for the commencement of different provisions of this Act.

Act to bind Crown, Administration and Territory authorities

3. Subject to this Act, this Act binds —

- (a) the Crown in right of Norfolk Island and the Administration; and
- (b) each Territory authority.

Definitions

4. The following expressions are defined, for the purposes of this Act or of a particular provision of this Act, in the Schedule —

appoint
determination
disallowable instrument
general adjustment
Magistrate
Public Account
public sector employee
Territory authority
Tribunal
wages.

Establishment of Public Sector Remuneration Tribunal

5. (1) A one-member tribunal called the Public Sector Remuneration Tribunal is established.

(2) Subject to this section, the Administrator may, in accordance with a recommendation of the Legislative Assembly —

- (a) appoint a person to be the Public Sector Remuneration Tribunal; and
- (b) determine the terms and conditions of the person's appointment.

(3) The Administrator must not appoint a person to be the Tribunal if the person is a public sector employee.

(4) Subject to this section, a person appointed to be the Tribunal holds office for 5 years.

(5) A person appointed to be the Tribunal may resign from the office by written notice provided to the Administrator.

(6) A person appointed to be the Tribunal is to be taken to have resigned under subsection (5) if the person becomes a public sector employee.

(7) The Administrator may remove from office a person appointed to be the Tribunal on the grounds of proved misbehaviour or incapacity.

(8) A person appointed to be the Tribunal has the same protection and immunity as a Magistrate.

Acting appointment

6. (1) Subject to this section, the Administrator may appoint a person to perform the functions of the Tribunal during the absence from duty or incapacity of a person appointed to be the Tribunal, or during a vacancy in the office of the Tribunal.

(2) Subsections 5(3), 5(5), 5(6) and 5(8) apply to an appointment under this section as if the appointment were an appointment under section 5.

(3) Nothing done by or in relation to a person appointed under this section is invalid on the ground that the occasion for the person to perform the functions of the Tribunal had not arisen or had ceased.

Clerk to the Tribunal

7. The Tribunal may, after consultation with the Minister, appoint a person to be the Clerk to the Tribunal.

Functions of Tribunal

8. The functions of the Tribunal are —

- (a) to determine whether general adjustments are to be made to wages payable to public sector employees;
- (b) if a general adjustment is to be made, to determine the amount or basis of calculation of the general adjustment and any matters relating to the implementation of the general adjustment, and to make such recommendations as to efficiency, effectiveness and accountability within the public sector as are relevant to the amount or basis of calculation of the general adjustment;
- (ca) to consider and approve the provisions of an enterprise agreement referred to it in accordance with the *Public Service Act 2014*; and
- (d) to perform such other functions, if any, as are prescribed.

Matters to be taken into account

9. In performing its functions, the Tribunal must take into account —
- (a) the public interest;
 - (b) economic conditions in the Norfolk Island community;
 - (c) concepts of equity and fairness that apply in the Norfolk Island community; and
 - (d) such other matters as are, in the opinion of the Tribunal, relevant to the proper performance of its functions.

Powers of Tribunal

10. (1) Subject to this section, the Tribunal has power to make different determinations in respect of different classes of public sector employees.

(2) The Tribunal must not make a determination which is intended to, or which has the effect of, adjusting the wages payable to a particular public sector employee otherwise than on a basis which is also applicable to —

- (a) in respect of a determination which applies to all public sector employees - those employees; or
- (b) in respect of a determination which applies to a particular class of public sector employees - all employees who are included in that class.

(3) In consideration of an enterprise agreement referred to it in accordance with the *Public Service Act 2014*, the Tribunal must either approve the agreement or refer it back to the Chief Executive Officer for further consideration in accordance with the provisions of that Act.

Procedure of Tribunal

11. (1) Subject to this Act, the Tribunal is to determine its own procedure.

(2) The Tribunal is to conduct its business with as little formality and technicality, and with as much speed, as is consistent with the proper consideration in accordance with this Act of matters before it.

(3) The Tribunal does not have power —

- (a) to make an order as to costs; or
- (b) to take evidence on oath or affirmation.

(4) The Tribunal shall convene as often as necessary for the efficient conduct of its functions.

Rules of procedure

12. (1) The Tribunal may, after such consultation with employing authorities and the representatives of public sector employees as is appropriate and practicable, make rules, not inconsistent with this Act, making provision for or in relation to the practice and procedure of the Tribunal.

(2) Notice of the making of the rules must be published in the Gazette, and the rules take effect from the date of that publication or from a later date specified in the notice.

(3) As soon as practicable after the making of the rules, the Tribunal must provide a copy of the rules to the Minister.

(4) As soon as practicable after a copy of the rules has been provided to the Minister, the Minister must lay a copy of the rules before the Legislative Assembly.

(5) The rules are a disallowable instrument.

Effect of determination

13. (1) A determination has effect from the date, if any, specified in the determination, even if the date so specified is earlier than the date of making of the determination.

(2) If a determination does not specify a date on which it is to have effect, the determination is to have effect on the date of making of the determination.

(3) As soon as practicable after the making of a determination, the Tribunal is to provide a copy of the determination to the Minister and to a representative of the public sector employees affected by the determination.

(4) As soon as practicable after a copy of a determination has been provided to the Minister, the Minister must ensure that the determination is brought to the notice of each employer that is affected by the determination.

(5) A determination is a disallowable instrument.

(6) Each employer that is affected by a determination must give effect to the determination.

(7) Despite the other provisions of this Act, a determination —

(a) cannot be made; and

(b) does not have effect,

in respect of a person's employment as an employee for the purposes of the *Public Sector Management Act 2000* while an enterprise agreement is in force under Division 4 of Part 3 of that Act.

Regulations

15. The Administrator may make regulations, not inconsistent with this Act, prescribing matters —

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**SCHEDULE
DEFINITIONS**

Section 4

Item

1. In this Schedule, a defined expression is shown in bold type.
2. In this Act, unless the contrary intention appears —
 - “**appoint**” includes re-appoint;
 - “**determination**” means a determination made under section 8 or under regulations, empowering the making of a determination, made under paragraph 8(1)(d);
 - “**disallowable instrument**” means a disallowable instrument for the purposes of section 41A of the *Interpretation Act 1979*;
 - “**general adjustment**”, in relation to **wages**, does not include an adjustment in respect of which, under subsection 10(2), the **Tribunal** does not have power to make a **determination**;
 - “**Magistrate**” means the same as in the *Court of Petty Sessions Act 1960*;
 - “**Public Account**” means the Public Account of Norfolk Island referred to in section 47 of the *Norfolk Island Act 1979* of the Commonwealth;
 - “**public sector employee**” means —
 - (a) an employee for the purposes of the *Public Service Act 2014*;
 - (c) a person appointed under section 19, or employed under section 21(2A), of the *Norfolk Island Hospital Act 1985*;
 - (d) a person appointed under section 48 of the *Legislative Assembly Act 1979*; and
 - (e) a person included in a prescribed class of persons, being a person wholly or substantially remunerated from the money of the **Public Account** or from the money of a **Territory authority**;
 - “**Territory authority**” means —
 - (b) the Norfolk Island Hospital Enterprise established by section 6 of the *Norfolk Island Hospital Act 1985*; and
 - (c) such other bodies, established by enactment as are prescribed;
 - “**Tribunal**” means the Public Sector Remuneration Tribunal established by subsection 5(1);
 - “**wages**” includes wages, salaries and any other remuneration that is recurrent and referable to the duties of a position, but does not include travelling allowance, relocation allowance or any other allowance that is by way of reimbursement and is not referable to the duties of a position.

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Appendix

NB - This Appendix does not form part of the legislation. It is added here for convenience.

Public Sector Remuneration Tribunal Act 1992*(Section 12)***PUBLIC SECTOR REMUNERATION TRIBUNAL****RULES OF PROCEDURE**

1. Applications to the Tribunal shall be lodged with the Clerk to the Tribunal. An Application must be substantially in accordance with Form 1.
2. Within 7 days after lodgment of an application the Clerk of the Tribunal shall cause notice of lodgment of an application to be published in the Norfolk Island Government Gazette. The notice shall state that a copy of the application may be obtained from the Clerk by interested members of the public. If an applicant desires that any part of an application be treated as confidential, the Tribunal may direct that that part of the application not be made available to the public.
3. The application shall be signed by the person making the application or, if the application is made by an association, by a person authorised by that association to make the application.
4. On the day of lodgment of the application the applicant shall serve a copy of it on the relevant employer ("employer" being defined in item 2 of the Schedule to the *Public Sector Remuneration Tribunal Act 1992*) or the Chief Executive Officer of the Administration of Norfolk Island.
5. The application shall state with reasonable precision the changes sought in scales of remuneration and/or conditions of employment.
6. Within 21 days after service of the application the relevant employer or the Chief Executive Officer shall lodge replies with the Clerk of the Tribunal and shall serve a copy of the replies on the person or association that made the application. An Application must be substantially in accordance with Form 2.
7. The replies shall, so far as practicable, state the extent to which the changes sought in the application are opposed.
8. Within 14 days of the lodgment of a reply by the employer or the Chief Executive Officer the applicant shall lodge with the Clerk to the Tribunal any response to such reply and shall serve a copy of the response on the employer or the Chief Executive Officer. An Application must be substantially in accordance with Form 3.
9. If reference is made in any application, reply or response to material or data referred to in a document intended to be relied upon at the hearing of the application a copy of that document (or relevant extracts therefrom) shall be annexed to the documents lodged with the Clerk to the Tribunal and served on the other parties.
10. Any party intending to tender oral or written evidence to the Tribunal shall, within 14 days prior to the date fixed for hearing of an application, serve on other parties a statement setting out the evidence proposed to be called.
11. If any party to an application proposes to request the Tribunal to determine any matters relating to the implementation of any general adjustment in wages or to make such recommendations as to efficiency, effectiveness, and accountability within the public sector as are relevant to the amount or basis of any calculation of general adjustment, that party shall specify the matters and recommendations which it is proposed to request the Tribunal to include in its Determination (in accordance with paragraph 8(1)(b) of the *Public Sector Remuneration Tribunal Act 1992*).
12. The Tribunal may, upon oral or written application, direct the applicant, the employer, or the Chief Executive Officer to furnish further or better particulars of any application, reply, or response lodged with the Tribunal.
13. The Tribunal may, if it thinks fit, vary the requirements of these Rules upon application made by any party.
14. The hearing of any application shall be held in public unless the Tribunal otherwise directs.
15. If it is practicable to do so, the Tribunal will sit to hear applications in or about the last week of April in each year. Accordingly, intending applicants are encouraged to lodge their applications no later than 1 March in each year so as to allow sufficient time for replies and responses to be lodged before the Tribunal sits to hear applications.
16. These Rules do not affect any application before the Tribunal as at the date these Rules come into force.

reasonable precision the class or classes. It is important that you read section 10 of the Public Sector Remuneration Tribunal Act 1992.)

Date:

Signature of Applicant or person authorised by Applicant to make the Application

Notice to Applicant

On the day of lodgment of this Application with the Tribunal, you must serve a copy of it on the relevant employer ("employer" being defined in item 2 of the Schedule to the *Public Sector Remuneration Tribunal Act 1992*) or the Chief Executive Officer of the Administration of Norfolk Island

Notice to Respondent

Within 21 days after receiving the Application, you must lodge a Reply with the Clerk to the Tribunal and serve a copy of the Reply on the Applicant.

Public Sector Remuneration Tribunal Act 1992*(Section 12)***FORM 2 REPLY TO APPLICATION**

Public Sector Remuneration Tribunal No PSRT of
Norfolk Island

[This form can be used to lodge a Reply to an Application to the Public Sector Remuneration Tribunal. Written submissions with numbered paragraphs must accompany this Reply.]

If reference is made to any material or data referred to in a document intended to be relied upon, a copy of that document (or relevant extracts from it) must be annexed to the Submissions in Reply and lodged with the Clerk to the Tribunal and served on the Applicant.]

BETWEEN:

Applicant

AND:

Respondent

Particulars of Respondent (employer):

(If the employer is an individual)

Full name:

Home/Business address:

Telephone:

Email address:

(If the employer is a Body)

Name:

Address of Respondent's public office/registered office:

Telephone No:

Email address:

Respondent's address for service of documents in the proceeding:

(Set out address for service)

(If Respondent is represented, include representative's name, company or firm name, and address for service)

Representative's name:

Address:

Telephone/Fax No:

Email address:

The employer or Body rely on the following facts in reply to the Application:

(Set out particulars of Reply in numbered paragraphs, stating the extent to which the relief sought in the Application is agreed to or opposed)

Request:

(Set out particulars of matters in numbered paragraphs which the Respondent proposes to request the Tribunal to include in its Determination in accordance with subsection 8(1) or subsection 10(2) of the Public Sector Remuneration Tribunal Act 1992).

Date:

Signature of Respondent or person authorised by the Respondent to sign this Reply

Notice to Applicant

Within 14 days after the day this Reply is served on you, you must lodge any Response to the Reply with the Clerk to the Tribunal and serve a copy of the Response to Reply on the Respondent.

Public Sector Remuneration Tribunal Act 1992

(Section 12)

FORM 3

RESPONSE TO REPLY

Public Sector Remuneration Tribunal
Norfolk Island

No PSRT. of

[This form can be used to lodge a Response to a Reply to an Application to the Public Sector Remuneration Tribunal.

The Applicant must file the Response to Reply with the Tribunal and serve a copy on the Respondent within 14 days after the Applicant receives the Reply.]

BETWEEN:

Applicant

AND:

Respondent

The Applicant responds as follows to the Respondent's Reply:

(Set out particulars of response in numbered paragraphs, including any answer to any request made by the Respondent and contained in the Respondent's Reply)

Date:

Signature of Applicant or person authorised by Applicant

As required under subsection 12(4) of the *Public Sector Remuneration Tribunal Act 1992*, these Rules of Procedure were tabled in the Legislative Assembly on 19 February 2014.

Under subsection 12(2) of the Act these Rules of Procedure were gazetted on 14 February 2014, Gazette No. 6, 2014.

Rule 15 of the original Rules of Procedure was amended by Determination 1 of 1997 of the *Public Sector Remuneration Tribunal Act 1992*.

NOTES

The *Public Sector Remuneration Tribunal Act 1992* as shown in this consolidation comprises Act No. 6 of 1992 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Public Sector Remuneration Tribunal Act 1992</i>	6, 1992	15.4.92	
<i>Healthcare (Consequential Amendments and Transitional Provisions) Act 1993</i>	5, 1993	31.5.93	
<i>Healthcare (Consequential Amendments and Transitional Provisions) Amendment Act 1993</i>	14, 1993	31.5.93	
<i>[Previously consolidated as at 1 September 1997]</i>			
<i>Statute Law (Miscellaneous Provisions) Act 1995</i>	13, 1995	29.7.95	
<i>Statutes Amendment (Public Sector Management) Act 1999</i>	9, 2000	25.5.00 [s 1 and 2] 9.3.01 [remainder]	
<i>[Previously consolidated as at 26 February 2003 and reissued 2 February 2011 to remove a typing error]</i>			
<i>Norfolk Island Government Tourist Bureau (Amendment) Act 2011</i>	10, 2011	9.9.11	
<i>[Previously consolidated as at 10 September 2011]</i>			
<i>Interpretation (Amendment) Act 2012</i> <i>[to substitute throughout — Commonwealth Minister for Minister; and to substitute Minister for executive member]</i>	14, 2012	28.12.12	
<i>NB – no amdt made to Act; new Rules of Procedure executed by Tribunal 5.2.2014; see Gaz No. 6 (14.2.2014); tabled Legislative Assembly 19.2.2014 [sec 12].</i>			
<i>[Previously consolidated as at 20 August 2013 – re-issued 20 June 2014 to amend Rules of Procedure]</i>			
<i>Public Service Act 2014</i>	11, 2014	Sch 3 (item 2): 23 Dec 2014	

Ordinance	FRLI registration	Commencement	Application, saving and transitional provision
Norfolk Island Continued Laws Amendment Ordinance 2015 (No. 2, 2015) (now cited as Norfolk Island Continued Laws Ordinance 2015 (see F2015L01491))	17 June 2015 (F2015L00835)	Sch 1 (items 277–290, 344, 345): 18 June 2015 (s 2(1) item 1)	Sch 1 (items 344, 345)
as amended by			
Norfolk Island Continued Laws Amendment (2015 Measures No. 1) Ordinance 2015 (No. 10, 2015)	14 Dec 2015 (F2015L01994)	Sch 4 (item 2): 15 Dec 2015 (s 2(1) item 2)	—

Table of Amendments

ad = added or inserted

am = amended

rep = repealed

rs = repealed and substituted

Provisions affected	How affected
4	am 9, 2000; 11, 2014 (md item 2(b)(i)); Ord No 2, 2015
5	am 11, 2014; Ord No 2, 2015
7	am 9, 2000
8	am 11, 2014; Ord No 2, 2015
10	am 11, 2014
11	am 13, 1995
13	am 9, 2000; Ord No 2, 2015
14	rep Ord No 2, 2015
Schedule	am 5, 1993; 14, 1993; 13, 1995; 9, 2000; 10, 2011; 11, 2014 (md item 2(b)(i)); Ord No 2, 2015 (as am by Ord No 10, 2015)

Appendix added for
ref. Rules of Procedure