

**NORFOLK ISLAND**

Employment Regulations 1991

No. 1, 1991

**Compilation No. 1**

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**Includes amendments up to:** Norfolk Island Continued Laws Ordinance 2015
(No. 2, 2015)



**NORFOLK ISLAND**

# EMPLOYMENT REGULATIONS 1991

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**NORFOLK ISLAND**



**Employment Regulations 1991**

#### Short title

 **1.** These Regulations may be cited as the *Employment Regulations 1991*.

#### Interpretation

 **2.** In these Regulations, unless the contrary intention appears —

“Act” means the *Employment Act 1988*;

“full-time employee” means an employee who is employed in a week for 35 hours or more;

“part-time employee” means an employee who is employed in a week for less than 35 hours.

#### Application of Act to Administration employees

 **3.** For the purposes of subsection 8(2) of the Act, the following provisions of the Act apply to officers and employees of the Administration —

(a) Part 1;

(b) section 24; and

(c) Parts 3 to 6.

##### Public holidays

 **3A.** For the purposes of subsection 9(2) of the Act in respect of the year 2016, Tuesday 27 December 2016 is to be taken as a public holiday (for Christmas Day) instead of Sunday 25 December.

#### Employment of children is limited

**5.**

….

  **(2)** For the purpose of paragraph 108(1)(b) of the Act, “enactment” means an enactment concerned with attendance at a school —

(a) in force at the place where the child is usually in attendance or enrolled; or

(b) if the child is not, for any reason, in attendance or enrolled at a school, in force in Norfolk Island.

#### Periodical compensation for incapacity

 **6.** For the purposes of subparagraph 30(4)(b)(i) of the Act, the prescribed amount is $769.

#### Compensation for permanent loss or impairment of function

 **7.** For the purposes of paragraph 31(2)(c) of the Act, the prescribed amount is $100,000.

#### Compensation for occupational disease

 **8.** For the purposes of paragraph 35(3)(b) of the Act, the prescribed information is as specified in Schedule 2.

#### Compulsory insurance

 **9.** **(1)** For the purposes of subsection 39(3) of the Act, the prescribed information in relation to an employee's medical history is as specified in Schedule 2.

 **(1A)** For the purposes of subsection 39(4) of the Act, the prescribed levy in relation to an employer in respect of a month is an amount calculated at the rate of 30 cents for each hour worked during the preceding month by each employee of the employer.

*Note – the increase in the prescribed levy from 20 cents to 30 cents has effect from 1 November 2011 and is applied to the levy payable after 1 December 2011.*

 **(1AB)** For the purposes of subsection 39(4A) of the Act and subregulation (1A), the amount of levy payable by an employer in respect of a month is that amount calculated in accordance with the prescribed information submitted in accordance with Schedule 5.

 **(1AC)** The prescribed information in accordance with subregulation (1AB) must be provided to the Minister no later than the 7th day of the month following the month for which the levy is payable.

 **(1AD)** The prescribed date for payment of the levy in accordance with section 39(4A) of the Act is the day upon which the prescribed information is provided as required by subregulation (1AC).

  **(2)** For the purposes of subsection 39(5) of the Act, the prescribed information is as specified in Schedule 3.

  **(3)** For the purposes of subsection 39(7) of the Act, the prescribed considerations are whether an employer's —

(a) accident history;

(b) first-aid facilities;

(c) accident prevention awareness; or

(d) standard of administration,

are such that the claims for compensation that may arise in respect of the employer's trade or business would be likely to prejudice the operation of the public scheme so as to result in higher levy costs to other employers.

  **(4)** For the purposes of paragraph 39(11)(b) of the Act, the prescribed amount is $2000.

#### Records and notifications, etc

 **10.** **(1)** For the purposes of subsection 53(2) of the Act —

(a) the prescribed records are —

(i) a book in which is recorded the date of each occasion on which first-aid training is given to the employer's employees, together with brief details of the nature of that training;

(ii) a book in which is recorded the date of occurrence, and particulars of, each injury to an employee arising out of, or suffered in the course of, employment by the employer of the employee (other than an injury, from which arises death or incapacity, referred to in subsection 53(3) of the Act); and

(iii) a copy of any information provided to the Minister under subsection 53(3) of the Act; and

(b) the prescribed period is 3 years.

  **(2)** For the purposes of subsection 53(3) of the Act, the prescribed form is as specified in Schedule 4.

#### Mode of service

 **11.** For the purposes of subsection 98(2) of the Act, a document may be given or served by post.

. . . .

#### Working week

 **13.** For the purposes of paragraph 108(2)(a) of the Act, 8 hours in a day and 40 hours in a week constitute the working week applicable to all employees in respect of employment of any kind.

##  SCHEDULE 2 *Regulation 8*

### **MEDICAL HISTORY OF EMPLOYEE**

To be completed by an employee at the employer’s request

Please fill in this form using block capitals. Do not leave any blank spaces - if a question is not applicable write “N/A” in the answer space.

1. Full name of employee

2. Full name of employer

3. Employee’s address

4. Please indicate which of the following best describes your occupation (tick more than one if applicable) —

 Performing clerical work 🞏

 Supervising manual work 🞏

 Performing manual work 🞏

 Using powered machinery 🞏

5. Have you any physical, mental or nervous defect, impaired eyesight or hearing, ill-health or recurrent condition?

 Tick one

(1)Yes 🞏

 No 🞏

 (2) If “yes”, please give details

………………………………………………………………….

7. Have you received medical advice or treatment including that given by a naturopath, chiropractor or any other practitioner of a similar kind in the past 5 years?

 Tick one

(1)Yes 🞏

 No 🞏

 (2) If “yes”, please give details

 ………………………………………………………………….

8. Have you claimed on an insurance company for disablement consequent upon an accident or illness?

 Tick one

(1)Yes 🞏

 No 🞏

 (2) If “yes”, please give details

 ………………………………………………………………….

9. Have you a habit of taking morphia, cocaine, chloral or other narcotic drugs or drugs of addiction?

 Tick one

(1)Yes 🞏

 No 🞏

 (2) If “yes”, please give details

 ………………………………………………………………….

10. Have you ever suffered from hernia?

 Tick one

(1)Yes 🞏

 No 🞏

 (2) If “yes”, please give details

 ………………………………………………………………….

11. Have you ever suffered a cardio-vascular or cerebro-vascular episode (heart attack or stroke)?

 Tick one

(1)Yes 🞏

 No 🞏

 (2) If “yes”, please give details

 ………………………………………………………………….

12. Are there any other matters relating to your personal or family medical history which should be disclosed?

 Tick one

(1)Yes 🞏

 No 🞏

 (2) If “yes”, please give details

 ………………………………………………………………….

13. I declare that the above information is true and correct.

 Signature of employee

 Date ....../....../......

##  SCHEDULE 3 *Regulation 9(2)*

### **APPLICATION TO BECOME A MEMBER OF THE PUBLIC SCHEME**

 To be completed by an employer wishing to become a

 member of the public scheme

Please fill in this form using block capitals. Do not leave any blank spaces - if a question is not applicable write “N/A” in the answer space.

**1. Full name of employer**

 Note - if the employer is a company or other body, please give the full legal name of the body.

**2. Postal address of employer**

**3. Street address of business premises**

 Note - if the premises are in more than one location, please specify each location.

**4 Nature of trade or business**

**5. Period of cover required**

 From .................. to ............... at 4pm.

**6. Do you use machinery?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

 (2) If “yes”, describe the machinery and state the motive power used

**7. Do you use, store or handle acids, gases, chemicals, explosives or radioactive materials?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

 **(2) If “yes”, please give details**

**8. Will any members of your family who reside with you be employed in your trade or business?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

 **(2) If “yes”, please give -**

 (a) the name of the employee ………………………...

 (b) the nature of the employment .......…………………

 (c) the nature of the family relationship ....................................………………………………

Notes -

 \* A “member of your family” means a child under 18; a child aged 18 or over but under 25 who is engaged in full-time education or training; a child aged 18 or over who is, because of mental or physical infirmity, unable to support himself or herself; a parent; a spouse (including de facto spouse).

 \* Only answer “yes” to question 8(1) if the family member resides with you.

 \* A family member who is your employee, and who resides with you, is not covered under the public scheme unless the above question is fully answered.

**9. In respect of your liability as an employer —**

 **(1) Have you previously effected insurance with an insurance company?**

 Tick one

Yes 🞏

 No 🞏

 **(2) Has any insurer permitted withdrawal of, or declined, any proposal?**

 Tick one

Yes 🞏

 No 🞏

 **(3) Has any insurer cancelled or refused to renew a policy?**

 Tick one

Yes 🞏

 No 🞏

 **(4) If “yes” to (2) or (3), please give details —**

…………………………………………………………...

……………………………………………………….….

**10. State the total amount paid by you as wages, salaries or other earnings during the past 12 months —**

 $........

**11. Complete the following wage etc details**

 **(1) Number of full-time employees**

 Note - a full-time employee is one who works for 35 or more hours per week.

 **(2) Number of part-time employees**

 Note - a part-time employee is one who works for less than 35 hours per week.

 **(3) Number of employees whose wages do not exceed $380 per week** ………………………………

 **(4) Number of employees whose wages exceed $380 per week** ...................................

 **(5) Number of employees engaged in the following activities —**

 Performing clerical work ……………………

 Supervising manual work ……………………

 Performing manual work ……………………

 Using powered machinery ……………………

 Note - an employee may fall into more than one of above categories.

**12. In the last 10 years, have any of your employees been injured in your employment, or suffered a heart attack, stroke, hernia or occupational disease as a result of the employment?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

 **(2) If “yes”, please give details** …………………………………..

..........................................………………………………………

**13. Please disclose any other facts which may be relevant to consideration of your application for membership of the public scheme**

................................................……………………………………………

**14. Application and declaration**

 The employer named above hereby applies to the Minister for membership of the public scheme.

 The employer named above hereby declares that the information provided above is true.

 **Signature of employer** ……………………………………………….

 **Date** ....../......./......

 **IMPORTANT NOTE** Cover does not commence until this application has been considered, a levy advice has been provided to the employer, and the applicable levy has been paid.

##  SCHEDULE 4 *Regulation 10(2)*

### **FORM OF ACCIDENT REPORT**

 To be completed by an employer when an employee

 suffers death or incapacity arising out of,

 or in the course of, the employment

Please fill in this form using block capitals. Do not leave any blank spaces - if a question is not applicable write “N/A” in the answer space.

This form **must** be provided to the Minister within 7 days after the death or incapacity became known to the employer.

**1. Full name of employer**

 Note - if the employer is a company or other body, please give the full legal name of the body.

**2. Postal address of employer**

**3. Employer’s business telephone number**

**4. Injured employee's name** ................................................…………….

 Sex .............. Age ............

**5. Injured employee's postal address**

**6. Injured employee’s occupation**

**7. Was the employee engaged in this occupation when the relevant accident/incident occurred?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

1. **If “no” state exactly what the employee was doing at the time of the accident/incident, and whether the accident/incident occurred during a meal break or other work break** ....……………....................................................................………………………………………………………

**8. How long has the employee been employed by you?** ……………………………………………………...

**9. State rate of wages etc paid at the time of the accident/incident —**

 **(1)** $......... per week

 **(2)** If not paid weekly, state the basis of payment .........................………………………...........

 **(3)** Normal working time per week -

 (a) Number of days per week

 (b) Number of hours per week

 **(4)** Is board or lodging provided by the employer?

 Tick one

Yes 🞏

 No 🞏

 If “yes”, state value per week - $..........

**10. State total earnings of the employee in the 12 months prior to the date of the accident or illness -**

 **(1)** Total sum $..........

 **(2)** Number of weeks ..........

 **(3)** Average earnings per week $..........

Note - include all payments and non-cash benefits (eg commissions, board, lodging, etc)

**11. Date of accident/incident ....../....../......**

**12. Day of week .**................

**13. Time of day** .................

**14. Did employee cease work immediately?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

 **(2)** If “no”, state when the employee ceased work  .......................................

**15. State number of hours lost on last day at work** ............ **hours**

**16. State full address of premises where accident/incident occurred** .......................................................................……………………………

**17. Did the injury/incident happen during a motor vehicle journey?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

1. If “yes”, please give full details ........................................................................................................

 ........................................................................................................

**18. Did the employee notify the accident/incident before leaving the place of employment on the day of the accident/incident?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

 **(2)** If “no”, when was the accident/incident first reported? ......................................................................……………………

 ......................................................................……………………

**19. Was the employee injured (etc) while doing something which was not part of the employment, or at a place where the employee was not required by the employment to be?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

1. If “yes”, please give details …………………………………………………………...

 ......................................................................................……

**20. Are you satisfied that the accident/incident happened in the course of employment and in the manner stated by the employee?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

 **(2)** If “no”, state the reasons for your conclusion ......................................................................................................................……………………………………………………….

**21. State the apparent cause of the accident/incident** ................................................................................................................................................................................................................................................

 Note - Give full and particular details. If necessary, continue on another sheet of paper.

**22. Was the employee perfectly sober at the time of the accident/incident?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

1. If “no”, please give details ................................................………………………………….

…………………………………………………………………

**23. Give the names of all witnesses to the accident/incident —**

 ..............................................………..

 ................................................………

 ................................................………

 ................................................………

 ................................................………

**24. State apparent nature and extent of injury or illness —**

 ................................................……………………………………………

 ................................................……………………………………………

 ................................................……………………………………………

**25. Did the employee receive any ambulance, medical, surgical or hospital treatment?**

 Tick one

 **(1)** Yes 🞏

 No 🞏

 **(2)** If “yes”, give brief details of the treatment .................................. ......................................................................................................................………………………………………………………

**26. Declaration**

 The employer named above hereby declares that the information provided above is true.

 **Signature** ...........................………………………………

 **Date** ....../....../......

 **IMPORTANT NOTE** - In any case of serious injury where machinery was in use DO NOT make any repairs or modifications before inspection.

**Schedule 5**

**DUE DATE**

***7 days after end of month***

***reported on.***

**Receipt No:\_\_\_\_\_\_\_\_\_\_\_\_**

**Date : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**EMPLOYMENT ACT 1988**

*Regulation 9(1AB)*

**EMPLOYER’S MONTHLY CERTIFICATE AND PAYMENT**

FOR WORKERS COMPENSATION INSURANCE COVER

UNDER THE NORFOLK ISLAND PUBLIC SCHEME

**NAME OF EMPLOYER TELEPHONE**

**MAILING ADDRESS**

**PROPRIETOR/PRINCIPAL OFFICER**

**TO THE MINISTER:**

During the month of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ no one other than the following was employed in Norfolk

Island by this employer; and

Total number of employees on this Certificate \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Each person named was on duty for this employer for not more than the number of hours shown against the employee’s name:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **EMPLOYEE’S FULL NAME** | **OCCUPATION** | **DATE OF BIRTH** | **HOURLY RATE** | **HOURS** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| **TOTAL HOURS** |  |  |  |  |

**Total of all hours worked x $0.20 = = LEVY DUE**

How many employees were injured in work-related accidents during the month?

How many who were injured required medical treatment other than First-Aid?

**I declare that the information above is correct and enclose payment of the Levy due.**

*Signature of Principal Officer*  *Date*

**IMPORTANT INFORMATION FOR EMPLOYER – BE SURE TO FILL IN THIS CERTIFICATE COMPLETELY AND CORRECTLY**

The *Employment Act 1988* requires that every employee receives compensation for specified types of work-related injury, disablement of disease, including some that may not show up until much later. The maximum compensation payable is currently $212, 930.95 and up to 2 years wages, and full medical expenses. As an Employer you are liable for all such compensation payments. This Monthly Certificate and Payment is evidence that you are fully insured for all such payments.

Unless you have full cover from an approved Insurance company, you are **NOT INSURED** if you fail to return this Certificate and Payment when due. You have **NO INSURANCE** if any employee or any hours are omitted from your Certificate. In addition to making you liable to pay for any compensation payments, this would also make you liable under the Act for up to $5,000 fine and 2 years imprisonment for failing to Insure.

**NOTES**

The Employment Regulationsas shown in this consolidation comprises Regulations No. 1 of 1991 and amendments as indicated in the Tables below.

| **Enactment** | **Number and year** | **Date of commencement** | **Application saving or transitional provision** |
| --- | --- | --- | --- |
| *Employment Regulations 1991* | 1, 1991 | 13.6.91 |  |
|  |  |  |  |
| *Employment Amendment Regulations 1991* | 4, 1991 | 31.10.91 |  |
|  |  |  |  |
| *Employment Amendment Regulations 1992* | 8, 1992 | 5.11.92 |  |
|  |  |  |  |
| *Employment Amendment Regulations 1993* | 1, 1993 | 30.9.93 |  |
|  |  |  |  |
| *Employment Amendment No. 2 Regulations 1993* | 2, 1993 | 4.1.94 |  |
|  |  |  |  |
| *Employment Amendment Regulations 1995* | 6, 1995 | 31.8.95 |  |
|  |
| *[Previously consolidated as at 25 July 2002]* |
|  |
| *Employment Amendment Regulations 2003* | 6, 2003 | 24.12.03 |  |
|  |
| *[Previously consolidated as at 4 March 2004]* |
|  |
| *Employment (Amendment) Regulations 2004* | 16, 2004 | 1.10.04, except s.6 which had effect from 1.1.2005 |  |
|  |  |  |  |
| *Employment (Amendment No. 2) Regulations 2004* | 18, 2004 | 24.12.04 |  |
|  |
| *[Previously consolidated as at 28 August 2006]* |
|  |
| *Employment (Amendment) Regulations 2007* | 10, 2007 | 27.7.2007 |  |
|  |
| *[Previously consolidated as at 28 July 2007]* |
|  |
| *Employment (Amendment) Regulations 2008* | 10, 2008 | 1.8.2008 |  |
|  |
| *[Previously consolidated as at 2 August 2008]* |
|  |
| *Employment (Amendment No. 2) Regulations 2008* | 11, 2008 | 5.9.2008 |  |
|  |
| *[Previously consolidated as at 6 September 2008]* |
|  |
| *Employment (Amendment) Regulations 2009* | 11, 2009 | 11.9.2009 |  |
|  |
| *[Previously consolidated as at 15 September 2009]* |
|  |
| *Employment (Amendment) Regulations 2010* | 10, 2010 | 27.8.2010 |  |
|  |
| *[Previously consolidated as at 28 August 2010]* |
|  |
| *Employment (Amendment) Regulations 2011* | 4, 2011 | 30.6.2011 |  |
|  |  |  |  |
| *Employment (Amendment No. 2) (Minimum Wage) Regulations 2011* | 5, 2011 | 30.6.2011 |  |
|  |
| *[Previously consolidated as at 6 July 2011]* |
|  |
| *Employment (Amendment No. 3) Regulations 2011* | 14, 2011 | 21.10.2011 | To have effect from 1.11.2011 |
|  |
| *[Previously consolidated as at 22 October 2011]* |
|  |
| *Employment (Amendment) Regulations 2012* | 7, 2012 | 27.7.2012 |  |
|  |
| *[Previously consolidated as at 23 February 2013]* |
|  |
| *Employment (Amendment) Regulations 2013* | 4, 2013 | 28.6.2013 | To have effect from 1.7.2013 |
|  |
| *[Previously consolidated as at 1 August 2012]* |
|  |
| *Interpretation (Amendment) Act 2012**[to substitute throughout —Commonwealth Minister for Minister; and to substitute Minister for executive member]* | 14, 2012 | 28.12.12 |  |
|  |
| *[Previously consolidated as at 29 June 2013]* |
|  |
| *Employment (Amendment) Regulations 2014* | 4, 2014 | 27.6.2014 |  |
|  |
| *[Previously consolidated as at 1 July 2014]* |
|  |
| *Employment (Amendment) Regulations 2015* | 1, 2015 | 2.4.2015 |  |
|  |  |  |  |
| *[Previously consolidated as at 7 April 2015]* |
|  |  |  |  |

| Ordinance | 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) | 18 June 2015 (s 2(1) item 1) | Sch 1 (items 344, 345) |
| as amended by |  |  |  |
| Norfolk Island Continued Laws Amendment (2016 Measures No. 2) Ordinance 2016(No. 5, 2016) | 10 May 2016 (F2016L00751)  | Sch 1 (item 2): 1 July 2016 (s 2(1) item 2) | — |

##### Table of Amendments

| ad = added or inserted | am = amended | rep = repealed | rs = repealed and substituted |
| --- | --- | --- | --- |
| **Provisions affected** | **How affected** |
| 3 | am | 5, 2011; Ord No 2, 2015 (as am by Ord No 5, 2016) |
| 3A | ad | 8, 1992 |
|  | rs | 6, 2003; 18, 2004; 10, 2007; 11, 2008; 11, 2009; 10, 2010; 7, 2012; 4, 2013; 4, 2014; 1, 2015 |
|  | am | Ord No 2, 2015 (as am by Ord No 5, 2016) |
| 4 | rs | 16, 2004 |
|  | rep | Ord No 2, 2015 (as am by Ord No 5, 2016) |
| 5 | am | 1, 1993; 16, 2004 |
| 6 | am | 6, 1995 |
| 9 | am | 4, 1991; 16, 2004*;* 14, 2011 |
| 11A | ad | 8, 1992 |
|  | rep | 2, 1993 |
| 12 | rs | 2, 1993; 6, 1995 |
|  | am | 16, 2004; 10, 2008 |
|  | rep | Ord No 2, 2015 (as am by Ord No 5, 2016) |
| 13 | am | 6, 1995 |
| Schedule I | rs | 4, 1991; 16, 2004 |
|  | rep | Ord No 2, 2015 (as am by Ord No 5, 2016) |
| Schedule 1A | ad | 16, 2004 |
|  | rep | Ord No 2, 2015 (as am by Ord No 5, 2016) |
| Schedule 5 | ad | 4, 2011 |