

NORTHERN TERRITORY OF AUSTRALIA

RETURN TO WORK REGULATIONS

As in force at 1 July 2015

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NORTHERN TERRITORY OF AUSTRALIA

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RETURN TO WORK REGULATIONS

Regulations under the *Return to Work Act*

1 Citation

These Regulations may be cited as the *Return to Work Regulations*.

2 Commencement

These Regulations shall come into operation on 1 January 1987.

3A Definition of *worker*

- (1) For paragraph (b) of the definition of ***worker*** in section 3 of the Act:
- (a) a member of the operations branch of St. John Ambulance Australia (N.T.) Inc.; and
 - (aa) a person complying with a summons served on the person in pursuance of the *Juries Act* or while serving as a juror under that Act; and
 - (b) a natural person who is authorised by a club, within the meaning of Part III of the *Racing and Betting Act*, to ride or drive a horse or pony for a fee or reward or provide services as a stablehand on a racecourse licensed under that Part, while the person is so engaged (whether or not on a racecourse); and
 - (c) a natural person who is engaged to drive a taxi, private hire car, limousine or motor omnibus, within the meaning of the *Commercial Passenger (Road) Transport Act*, by a person who, or by a director of a body corporate that:
 - (i) is accredited within the meaning of that Act or is exempted under section 15 of that Act; and
 - (ii) is approved by the Authority for this regulation,while the person is so engaged,

are persons prescribed as workers within the meaning of that definition.

- (2) For paragraph (g) of the definition of **worker** in section 3 of the Act:
- (a) a member of the crew of a fishing vessel who is remunerated wholly or mainly by a share in the profits or gross earnings from the working of the vessel; and
 - (b) a person operating as a direct selling agent under an agency agreement approved by the Authority for this regulation; and
 - (c) a person who is a carer under the *Care and Protection of Children Act*; and
 - (d) a person, other than a person referred to in paragraph (c), caring for reward or gain, whether monetary or otherwise, in the person's place of residence of another person's child;

are prescribed persons who are not workers within the meaning of that definition.

4 Prescribed member of family

For section 3(2) of the Act, a spouse, a parent (including a stepmother or stepfather) or grandparent, a child (including a stepchild) or grandchild, a brother or sister (including a half brother or half sister) are prescribed members of the immediate family of an employer.

4A Domestic employee of householder

- (1) For section 3(5) of the Act, a person employed by a householder to perform ironing, house cleaning, cooking or gardening duties in the householder's home, or as a chauffeur for the householder or a member of the householder's family, who earns, in a week, more than 20% of the average weekly earnings is a prescribed employee.
- (2) For section 3(5) of the Act, a person referred to in subregulation (1) employed to perform the duties specified in that subregulation is not paid at a rate that would exceed the amount specified in that subregulation unless the person earns more than that amount in a week.

5 Prescribed amount

For section 3(10) of the Act, the prescribed amount is 65% of the annual equivalent of average weekly earnings.

5A Inspectors' identity cards

For section 7B(1) of the Act, an identity card given to an inspector must include the following:

- (a) a recent photograph of the inspector of the size, and in the form, specified by the Authority;
- (b) the inspector's signature;
- (c) the date (if any) on which the inspector's appointment ends;
- (d) any conditions to which the inspector's appointment is subject.

5B Prescribed diseases and qualifying periods: firefighters

For section 50A of the Act, the following diseases and qualifying periods are prescribed as specified in the following table:

Disease	Qualifying period
Primary site brain cancer	5 years
Primary site bladder cancer	15 years
Primary site kidney cancer	15 years
Primary non-Hodgkin's lymphoma	15 years
Primary leukaemia	5 years
Primary site breast cancer	10 years
Primary site testicular cancer	10 years
Multiple myeloma	15 years
Primary site prostate cancer	15 years
Primary site ureter cancer	15 years
Primary site colorectal cancer	15 years
Primary site oesophageal cancer	25 years

5C Prescribed number of fires and prescribed firefighting period

For paragraph (a)(ii) of the definition ***working as an active firefighter*** in section 50A(3) of the Act:

- (a) the prescribed number of fires is 150; and
- (b) the prescribed firefighting period is:
 - (i) 5 years, if the prescribed disease is primary site brain cancer or primary leukaemia; or
 - (ii) 10 years for any other prescribed disease.

6 Prescribed amount of funeral benefit

For section 62(1)(a)(ii) of the Act, the prescribed amount is 20% of the annual equivalent of average weekly earnings.

6AA Expert financial advice

- (1) For section 62(5) of the Act, expert financial advice means a financial service for which a person is required to hold an Australian financial services licence, whether or not as an authorised representative or representative of a person who carries on a financial services business.

- (2) In this regulation:

Australian financial services licence, see Chapter 7 of the Corporations Act 2001.

authorised representative, see Chapter 7 of the Corporations Act 2001.

financial service, see Chapter 7 of the Corporations Act 2001.

financial services business, see Chapter 7 of the Corporations Act 2001.

6A Entitlement to compensation of worker residing outside Australia

For section 65B(2)(a) of the Act, the worker must give the employer, at intervals of not less than 3 months, a declaration, in the approved form, made by each of the following:

- (a) the worker;

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- (b) a medical practitioner or, if the worker is living in another country, a person registered under the law of the country that provides for the registration of persons practising the medical profession.

8 Compensation for certain volunteers

For section 66 of the Act, compensation is calculated as the remuneration for the person's normal weekly number of hours of work for all employment of the person at the time of the injury calculated at his or her ordinary time rate of pay or 50% of average weekly earnings, whichever is the greater amount.

11 Declarations

Declarations required or permitted to be made by or under the Act may be witnessed by a person who is authorised under the *Oaths, Affidavits and Declarations Act* to witness a statutory declaration.

12 Statement of fitness for work accompanying claim

- (1) For section 82(1)(b) of the Act, the following persons are prescribed for issuing a statement of fitness for work for a worker if, because of the worker's isolation, a medical practitioner is unable to issue such a statement:
 - (a) persons registered under the Health Practitioner Regulation National Law to practise in the nursing and midwifery profession as nurses (other than as students);
 - (b) persons registered under the Health Practitioner Regulation National Law to practise in the Aboriginal and Torres Strait Islander health practice profession (other than as students).
- (2) For section 82(6) of the Act, a statement of fitness for work referred to in section 82(1)(b) of the Act has effect for the following period:
 - (a) if it is from a medical practitioner – 14 days;
 - (b) if it is from a prescribed person who has consulted about the matter with a medical practitioner by radio, telephone or other means – 14 days;
 - (c) if it is from a prescribed person who has not consulted about the matter with a medical practitioner – 3 days.

13 Statement of right to commence proceedings before court

If the employer gives the worker a statement referred to in section 69(1)(b) or 85(8) of the Act, the employer must also give the worker:

- (a) a copy of the statement; and
- (b) a copy of the approved information bulletin relating to the mediation process.

14 Late payment of weekly payments

For section 89 of the Act, the prescribed rate of interest is the rate applicable to a judgment debt under a judgment of the Supreme Court.

14A Procedure for mediation

- (1) A mediator must keep a record of the mediation of a dispute that includes:
 - (a) a description of the nature of the dispute; and
 - (b) the parties to the mediation; and
 - (c) the outcome of the mediation.
- (2) If a mediator convenes a conference under section 103C(3)(b) of the Act, the mediator:
 - (a) must set the date on which, and the time and place at which, the conference is to take place; and
 - (b) must preside at the conference; and
 - (c) may adjourn or terminate the conference at any time.

15 Prescribed indemnity

For section 126(1) of the Act, \$2,000,000 is the prescribed amount.

16 Employer's wages declarations

For section 130(4)(b) of the Act, a statement must be verified, if an employer is:

- (a) a natural person – by the natural person; or

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- (b) a partnership – by one of the partners; or
 - (c) a body corporate (other than an incorporated association referred to in paragraph (c)) – by a director or secretary of the body corporate or its principal officer in the Territory; or
 - (d) an incorporated association, within the meaning of the *Associations Act* – by the public officer;

making a statutory declaration to the effect that the estimate of wages and other prescribed information is true and correct.

17 Election to pay premium by instalment

For section 131 of the Act, where an employer and insurer do not agree on the manner of election to pay premiums by instalments, the employer may elect by serving a notice in writing on the insurer not later than 21 days before the first instalment is payable under that section.

17A Late payment of premiums

For section 131(3) of the Act, the prescribed rate of interest is the rate applicable to a judgment debt under a judgment of the Supreme Court.

18 Service on nominal insurer

Anything required or permitted by the Act to be served on the Nominal Insurer may be served:

- (a) by clearly marking it for the attention of the Nominal Insurer and leaving it, during normal business hours, at the Darwin office of the Authority with a person who has apparently attained the age of 16 years and is employed at that office; or
- (b) by properly addressing and posting it by prepaid post to the Nominal Insurer, G.P.O. Box 2056, Darwin, N.T. 0800.

ENDNOTES

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KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

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LIST OF LEGISLATION***Work Health Regulations (SL No. 49, 1986)***

Notified	23 December 1986
Commenced	1 January 1987 (r 2)

Amendments of the Work Health Regulations (SL No. 48, 1987)

Notified	23 December 1987
Commenced	23 December 1987

Amendments of Work Health Regulations (SL No. 5, 1989)

Notified	1 March 1989
Commenced	1 March 1989

Amendment of Work Health Regulations (SL No. 56, 1990)

Notified	21 December 1990
Commenced	21 December 1990

Amendments of Work Health Regulations (SL No. 25, 1991)

Notified	12 June 1991
Commenced	12 June 1991

Amendment of Work Health Regulations (SL No. 77, 1991)

Notified	20 December 1991
Commenced	20 December 1991

Amendments of Work Health Regulations (SL No. 32, 1992)

Notified	8 July 1992
Commenced	8 July 1992

Amendment of Work Health Regulations (SL No. 22, 1993)

Notified 11 August 1993
 Commenced 11 August 1993

Amendments of Work Health Regulations (SL No. 50, 1993)

Notified 22 December 1993
 Commenced 22 December 1993

Amendments of Work Health Regulations (SL No. 11, 1996)

Notified 13 March 1996
 Commenced 13 March 1996

Amendment of Work Health Regulations (SL No. 38, 1996)

Notified 7 August 1996
 Commenced 7 August 1996

Amendment of Work Health Regulations (SL No. 29, 1997)

Notified 12 November 1997
 Commenced 12 November 1997

Amendments of Work Health Regulations (SL No. 4, 1999)

Notified 10 March 1999
 Commenced 10 March 1999

Amendments of Work Health Regulations (SL No. 39, 2000)

Notified 30 June 2000
 Commenced 30 June 2000

Commercial Passenger (Road) Transport (Consequential Amendments) Act 2003 (Act No. 41, 2003)

Assent date 7 July 2003
 Commenced 1 August 2003 (Gaz G30, 30 July 2003, p 2)

Statute Law Revision Act (No. 2) 2003 (Act No. 44, 2003)

Assent date 7 July 2003
 Commenced 7 July 2003

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)

Assent date 7 January 2004
 Commenced 17 March 2004 (Gaz G11, 17 March 2004, p 8)

Statute Law Revision Act 2004 (Act No. 18, 2004)

Assent date 15 March 2004
 Commenced 5 May 2004 (s 2(1), s 2 Associations Act 2003 (Act No. 56, 2003) and Gaz G18, 5 May 2004, p 2)

Work Health Amendment (Medical Certificates) Regulations 2005 (SL No. 31, 2005)

Notified 21 September 2005
 Commenced 21 September 2005

Work Health Amendment Regulations 2007 (SL No. 19, 2007)

Notified 1 August 2007
 Commenced 1 August 2007

Law Reform (Work Health) Amendment Act 2007 (Act No. 30, 2007)

Assent date 12 December 2007
Commenced 1 July 2008 (Gaz S29, 25 June 2008)

Statute Law Revision Act 2009 (Act No. 25, 2009)

Assent date 1 September 2009
Commenced 16 September 2009 (Gaz G37, 16 September 2009, p 3)

Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)

Assent date 20 May 2010
Commenced 1 July 2010 (s 2)

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)

Assent date 18 November 2010
Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and Gaz G7, 16 February 2011, p 4)

Work Health and Safety (National Uniform Legislation) Consequential Amendments Regulations (SL No. 60, 2011)

Notified 30 December 2011
Commenced 1 January 2012 (r 2)

Workers Rehabilitation and Compensation Amendment Act 2012 (Act No. 16, 2012)

Assent date 27 April 2012
Commenced 1 July 2012 (Gaz G22, 30 May 2012, p 6)

Health Practitioner (National Uniform Legislation) Implementation Act 2012 (Act No. 17, 2012)

Assent date 22 May 2012
Commenced 1 July 2012 (s 2)

Workers Rehabilitation and Compensation Legislation Amendment Act 2015 (Act No. 9, 2015)

Assent date 23 April 2015
Commenced ss 3, 4, 5, 24, 25 and pt 4: 22 May 2015; rem: 1 July 2015:
(Gaz S50, 22 May 2015)

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SAVINGS AND TRANSITIONAL PROVISIONS

s 89 *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003*
(Act No. 1, 2004)

4 LIST OF AMENDMENTS

r 1	amd Act No. 30, 2007, s 59; Act No. 9, 2015, s 25
r 3	rep No. 4, 1999, r 2
r 3A	ins No. 48, 1987, r 1 amd No. 5, 1989, r 1; No. 25, 1991, r 1 sub No. 77, 1991 amd No. 32, 1992, r 1; No. 38, 1996; No. 29, 1997; No. 4, 1999, r 3; No. 39, 2000, r 1; Act No. 41, 2003, s 6; No. 19, 2007, r 3; Act No. 25, 2009, s 11; Act No. 16, 2012, s 13
r 4	sub No. 25, 1991, r 2 amd Act No. 16, 2012, s 17
r 4A	ins No. 25, 1991, r 2; No. 39, 2000, r 2 rep No. 32, 1992, r 2 amd Act No. 1, 2004, s 63; Act No. 16, 2012, s 17
r 5	rep No. 32, 1992, r 2 ins No. 50, 1993, r 2 amd No. 4, 1999, r 4; Act No. 16, 2012, s 17
r 5A	ins No. 60, 2011, r 22
rr 5B – 5C	ins Act No. 9, 2015, s 26
r 6	amd No. 48, 1987, r 2; Act No. 44, 2003, s 6; Act No. 16, 2012, s 17; Act No. 9, 2015, s 27
r 6AA	ins Act No. 9, 2015, s 28
r 6A	ins Act No. 16, 2012, s 14
r 7	amd No. 48, 1987, r 3; No. 5, 1989, r 2; No. 56, 1990, r 1 rep No. 32, 1992, r 2
r 8	amd No. 4, 1999, r 5; Act No. 16, 2012, s 17
r 9	amd No. 22, 1993; No. 50, 1993, r 3; Act No. 16, 2012, s 17 rep Act No. 9, 2015, s 29
r 10	amd No. 48, 1987, r 4 rep No. 4, 1999, r 6
r 11	sub No. 50, 1993, r 4 amd Act No. 40, 2010, s 202
r 12	amd No. 4, 1999, r 7 sub No. 31, 2005, r 3 amd Act No. 18, 2010, s 89; Act No. 17, 2012, s 55; Act No. 9, 2015, s 30
r 13	amd No. 50, 1993, r 5; No. 11, 1996, r 1 sub No. 4, 1999, r 8
r 14	sub Act No. 16, 2012, s 15
r 14A	ins No. 50, 1993, r 6 sub No. 4, 1999, r 9 amd Act No. 16, 2012, s 17
r 14B	ins No. 50, 1993, r 6 rep No. 4, 1999, r 9
r 15	amd Act No. 16, 2012, s 17
r 16	amd No. 4, 1999, r 10; Act No. 18, 2004, s 3; Act No. 16, 2012, s 17
r 17	amd Act No. 16, 2012, s 17
r 17A	ins No. 48, 1987, r 5 sub Act No. 16, 2012, s 16
sch	amd No. 48, 1987, r 6; No. 5, 1989, r 3; No. 56, 1990, r 2; No. 32, 1992, r 2; No. 50, 1993, r 7; No. 11, 1996, r 2 rep No. 4, 1999, r 11