

Employment Act 2006 sections 8 to 20 including proposed amendments made by the Employment (Written Statements and Itemised Pay Statements) Order and the Employment (Written Statements and Itemised Pay Statements) Regulations 2023

This is a Keeling Schedule prepared by the Department for Enterprise. The purpose of a Keeling Schedule is to aid understanding of legislation by showing amendments to legislation in context. In this case the Schedule shows how the Employment Act 2006 will be worded if the amendments made to the Employment Act 2006 by the Employment (Written Statements and Itemised Pay Statements) Order and the Employment (Written Statements and Itemised Pay Statements) Regulations 2023 are approved by Tynwald.

Amendments and substitutions are shown in **red text**.

Written particulars of terms of employment

8 Written particulars of terms of employment

[P1996/18/1 and 3(1) and (2); 1991/19/1]

- (1) Not later than 4 weeks after the beginning of ~~an employee's~~ **a worker's** employment with an employer, the employer shall give to ~~the employee~~ **the worker** a written statement in accordance with the following provisions of this section.
- (2) An employer shall in a statement under this section —
 - (a) identify the parties;
 - (b) specify the date when the employment began; and
 - (c) **in the case of a statement given to an employee**, specify the date on which the employee's period of continuous employment began (taking into account any employment with a previous employer which counts towards that period).
- (3) A statement under this section shall contain the following particulars of the terms of employment as at a specified date not more than one week before the statement is given or, where the employment terminated before the statement is given, one week before such termination —
 - (a) the scale or rate of remuneration, or the method of calculating remuneration,
 - (b) the intervals at which remuneration is paid (that is, whether weekly or monthly or by some other period),
 - (ba) the method by which—**
 - (i) the itemised pay statement; and**
 - (ii) if given, a standing statement of fixed deductions, is given;**
 - ~~(c) any terms and conditions relating to hours of work (including any terms and conditions relating to normal working hours);~~

- (c) any terms and conditions relating to hours of work including those relating to –
 - (i) normal working hours;
 - (ii) the days of the week the worker is required to work; and
 - (iii) whether or not such hours or days may be variable, and if so how they vary or how that variation is to be determined;
 - (d) any terms and conditions relating to —
 - (i) entitlement to holidays, including public holidays, and holiday pay (the particulars given being sufficient to enable the ~~employee's~~ **worker's** entitlement, including any entitlement to accrued holiday pay on the termination of employment, to be precisely calculated),
 - (ii) incapacity for work due to sickness or injury, including any provision for sick pay,
 - (iia) any other paid leave,
 - (iii) pensions and pension schemes, including the normal retiring age in the employment,
 - (da) any other benefits provided by the employer that do not fall within another paragraph of this subsection;
 - (e) the length of notice which the ~~employee~~ **worker** is obliged to give and entitled to receive to terminate his or her contract of employment, **or other worker's contract,**
 - (f) the title of the job which the ~~employee~~ **worker** is employed to do,
 - (g) where the employment is not intended to be permanent, the period for which it is expected to continue or, if it is for a limited term, the date or circumstances when it is to end,
 - (h) either the place of work or, where the ~~employee~~ **worker** is required or permitted to work at various places, an indication of that and of the address of the employer,
 - (i) any collective agreements which directly affect the terms and conditions of the employment including, where the employer is not a party, the persons by whom they were made, ~~and~~
 - (j) where the ~~employee~~ **worker** is required to work outside the Island for a period of more than one month —
 - (i) the period for which he or she is to work outside the Island,
 - (ii) the currency in which remuneration is to be paid while he or she is working outside the Island,
 - (iii) any additional remuneration payable to him or her, and any benefits to be provided to or in respect of him or her, by reason of being required to work outside the Island, and
 - (iv) any terms and conditions relating to his or her return to the Island.
- (4) Subsection (3)(d)(iii) does not apply to the ~~employees~~ **workers** of any public authority if the ~~employees'~~ **workers'** pension rights depend on the terms of a pension scheme established under any provision contained in or having effect under an Act of Tynwald and the authority are required by any such provision

to give to new employees **workers** information concerning their pension rights, or concerning the determination of questions affecting their pension rights.

- (5) Subject to subsection (6), every statement given to an ~~employee~~ **a worker** under this section shall include a note —
- (a) specifying any disciplinary rules and procedures applicable to the ~~employee~~**worker**, or referring to a document which is reasonably accessible to the ~~employee~~ **worker** and which specifies any such rules and procedures;
 - (b) specifying, by description or otherwise —
 - (i) a person to whom the ~~employee~~ **worker** can apply if he or she is dissatisfied with any disciplinary decision relating to him or her; and
 - (ii) a person to whom the ~~employee~~ **worker** can apply for the purpose of seeking redress of any grievance relating to his or her employment; and
 - (iii) the manner in which any such application should be made;
 - (c) where there are further steps consequent upon any such application, explaining those steps or referring to a document which is reasonably accessible to the ~~employee~~ **worker** and which explains them.
 - (d) [Repealed]ⁱ
- (6) Subsection (5)(a) to (c) does not apply to rules, disciplinary decisions, grievances or procedures relating to health or safety at work.
- (7) The definition of week given by section 173(1) (general interpretation) does not apply for the purposes of this section.

9 Supplementary provisions as to statements under section 8

[P1996/18/2; 1991/19/2]

- (1) If there are no particulars to be entered under any of the heads of section 8(3)(d), or under any of the other provisions of sections 8(2), (3) and (5), that fact shall be stated.ⁱⁱ
- (2) A statement given under section 8 may, for all or any of the particulars to be given by the statement, refer the ~~employee~~ **worker** to some document which the ~~employee~~ **worker** has reasonable opportunities of reading in the course of his or her employment or which is made reasonably accessible to him or her in some other way.
- (3) No statement need be given under section 8 where —
- (a) the ~~employee's~~ **worker's** employment began not more than 6 months after the end of earlier employment with the same employer,
 - (b) a statement under that section, and any information subsequently required under section 10 (changes in terms of employment), were duly given to the ~~employee~~ **worker** in respect of his or her earlier employment, and
 - (c) the terms of his or her present employment are the same as those of his or her earlier employment and any other matters falling within section 8(5) of which particulars were to be given by that statement are also unchanged,

but without prejudice to the operation of section 10 if there is subsequently a change in his or her terms of employment or in any of those matters.

- (4) The employer shall preserve a copy of every statement given under section 8 until the expiration of 6 months following the termination of the employment in question.
- (5) Where before the end of the period of 4 weeks after the beginning of an employee's **worker's** employment the ~~employee~~ **worker** is to begin to work outside the Island for a period of more than one month, the statement under section 8 shall be given to him or her not later than the time when he or she leaves the Island in order to begin so to work.

10 Changes in terms of employment

[P1991/19/3]

- (1) If after the date to which a statement given under section 8 (written particulars of terms of employment) relates there is a change in the terms of employment to be included, or referred to, in that statement the employer shall —
 - (a) not more than 4 weeks after the change, or
 - (b) where that change results from the ~~employee~~ **worker** being required to work outside the Island for a period of more than one month, the time when he or she leaves the Island to begin so to work, if that is earlier,inform the ~~employee~~ **worker** of the nature of the change by a written statement and, if he or she does not leave a copy of the statement with the ~~employee~~ **worker**, shall preserve the statement and ensure that the ~~employee~~ **worker** has reasonable opportunities of reading it in the course of his or her employment, or that it is made reasonably accessible to him or her in some other way.
- (2) A statement given under subsection (1) may, for all or any of the particulars to be given by the statement, refer the ~~employee~~ **worker** to some document which the ~~employee~~ **worker** has reasonable opportunities of reading in the course of his or her employment, or which is made reasonably accessible to him or her in some other way.
- (3) If, in referring in the statement given under section 8 or under subsection (1) to any such document, the employer indicates to the ~~employee~~ **worker** that future changes in the terms of which the particulars are given in the document will be entered up in the document (or recorded by some other means for the information of persons referring to the document), the employer need not under subsection (1) inform the ~~employee~~ **worker** of any such change if it is duly entered up or recorded not later than 4 weeks after the change is made.
- (4) Where, after an employer has given to an ~~employee~~ **a worker** a written statement in accordance with section 8 —
 - (a) the name of the employer (whether an individual or a body corporate or partnership) is changed, without any change in the identity of the employer, or
 - (b) **in the case of a statement given to an employee**, the identity of the employer is changed, in such circumstances that[,] the continuity of the employee's period of employment is not broken,

and (in either case) the change does not involve any change in the terms (other than the names of the parties) included or referred to in the statement, then, the person who, immediately after the change, is the employer shall not be required to give to the ~~employee~~ **worker** a statement in accordance with section 8, but, subject to subsection (5), the change shall be treated as a change falling within subsection (1).

- (5) A written statement under this section which informs an employee of such a change in his or her terms of employment as is referred to in subsection (4)(b) shall specify the date on which the employee's period of continuous employment began.
- (6) Any reference in subsection (1), (3) or (4) to the terms of employment which were to be, or were, included or referred to in a statement given under section 8 shall be construed as including a reference to any other matters falling within section 8(2)(c) and (5) of which particulars were to be given by that statement.

11 Exclusion of certain contracts in writing

[P1991/19/4]

Sections 8 (written particulars of terms of employment) and 10 (changes in terms of employment) do not apply to an ~~employee~~ **a worker** if and so long as the following conditions are fulfilled in relation to him or her —

- (a) the ~~employee's~~ **worker's** contract of employment is a contract which has been reduced to writing in one or more documents and which contains express terms affording the particulars to be given under each of the paragraphs in section 8(3) and under each head of section 8(3)(d);
- (b) there has been given to the ~~employee~~ **worker** a copy of the contract (with any variations made from time to time), or he or she has reasonable opportunities of reading such a copy in the course of his or her employment, or such a copy is made reasonably accessible to him or her in some other way; and
- (c) such a note as is mentioned in section 8(5) has been given to the ~~employee~~ **worker** or he or she has reasonable opportunities of reading such a note in the course of his or her employment or such a note is made reasonably accessible to him or her in some other way.

12 Employees **Workers becoming or ceasing to be excluded from sections 8 to 10**

[P1991/19/5]

- (1) Sections 8 to 10 apply to an ~~employee~~ **a worker** who at any time comes or ceases to come within the exceptions from those sections provided for by section 11 (exclusion of certain contracts in writing) or Schedule 4 (treatment of special categories of worker) as if his or her employment with his or her employer terminated or began at that time.
- (2) The fact that section 8 is directed to apply to an ~~employee~~ **a worker** as if his or her employment began on their ceasing to come within one of the exceptions referred to in subsection (1) does not affect the obligation under

section 8(2)(b) to specify the date on which his or her employment actually began.

13 Power of Department to require further particulars

[P1991/19/6]

The Department may by order provide that section 8 shall have effect as if such further particulars as may be specified in the order were included in the particulars to be included in a statement under that section, and, for that purpose, the order may include such provisions amending sections 8(1), (2) and (3) as appear to the Department to be expedient.

Itemised pay statements

14 Right to itemised pay statement

[P1996/18/8; 1991/19/7]

Every employee **worker** has the right to be given by his or her employer at or before the time at which any payment of wages or salary is made to him or her an itemised pay statement, in writing, containing the following particulars —

- (a) the gross amount of the wages or salary;
- (b) the amounts of any variable and, subject to section 15 (standing statement of fixed deductions), any fixed deductions from that gross amount and the purposes for which they are made;
- (c) the net amount of wages or salary payable; **and**
- (d) where different parts of the net amount are paid in different ways, the amount and method of payment of each part-payment; **and**
- (e) **where the amount of wages or salary varies by reference to time worked, the total number of hours worked in respect of the variable amount of wages or salary either as —**
 - (i) **a single aggregate figure; or**
 - (ii) **separate figures for different types of work or different rates of pay.**

15 Standing statement of fixed deductions

[P1991/19/8]

(1) A pay statement given in accordance with section 14 need not contain separate particulars of a fixed deduction if it contains instead an aggregate amount of fixed deductions, including that deduction, and the employer has given to the employee **worker**, at or before the time at which that pay statement is given, a standing statement of fixed deductions, in writing, which contains the following particulars of each deduction comprised in that aggregate amount, —

- (a) the amount of the deduction;
- (b) the intervals at which the deduction is to be made; and
- (c) the purpose for which it is made,

and which, in accordance with subsection (4), is effective at the date on which the pay statement is given.

- (2) A standing statement of fixed deductions may be amended, whether by addition of a new deduction or by a change in the particulars or cancellation of an existing deduction, by notice in writing, containing particulars of the amendment, given by the employer to the ~~employee~~ **worker**.
- (3) An employer who has given to ~~an employee~~ **a worker** a standing statement of fixed deductions shall, within the period of 12 months beginning with the date on which the first standing statement was given and at intervals of not more than 12 months thereafter, reissue it in a consolidated form incorporating any amendments notified in accordance with subsection (2).
- (4) A standing statement of fixed deductions shall become effective, for the purposes of subsection (1), on the date on which it is given to the ~~employee~~ **worker** and shall cease to have effect on the expiration of the period of 12 months beginning with that date, or, where it is reissued in accordance with subsection (3), the expiration of the period of 12 months beginning with the date on which it was last re-issued.

16 Power to amend sections 14 and 15

[P1996/18/10; 1991/19/9]

The Department may by order —

- (a) vary the provisions of sections 14 and 15 as to the particulars which must be included in a pay statement or a standing statement of fixed deductions by adding items to or removing items from the particulars listed in those sections or by amending any such particulars; and
- (b) vary the provisions of section 15(3) and (4) so as to shorten or extend the periods of 12 months referred to in those subsections, or those periods as varied from time to time under this section.

Enforcement of rights under Part II

17 References to and determination by Tribunal

[P1996/18/11 and 12; 1991/19/10]

- (1) Where an employer does not give ~~an employee~~ **a worker** a statement as required by section 8 or 10 (written particulars and changes in terms of employment) or 14 (right to itemised pay statement), either because he or she gives him or her no statement or because the statement given does not comply with what is required, the ~~employee~~ **worker** may apply to the Tribunal to determine what particulars ought to have been included or referred to in a statement so as to comply with the requirements of the relevant section.
- (2) Where —
 - (a) a statement purporting to be a statement under section 8 or 10, or
 - (b) a pay statement, or a standing statement of fixed deductions, purporting to comply with section 14 or 15,
 has been given to ~~an employee~~ **a worker**, and a question arises as to the particulars which ought to have been included or referred to in the statement so as to comply with the requirements of this Part, either the employer or the ~~employee~~ **worker** may apply to have the question determined by the Tribunal.

- (3) Where a statement under section 8 or 10 given by an employer to an ~~employee~~ **a worker** contains such an indication as is mentioned in section 10(3), and —
- (a) any particulars purporting to be particulars of a change to which that indication relates are entered up or recorded in accordance with that indication, and
 - (b) a question arises as to the particulars which ought to have been so entered up or recorded,
- either the employer or the ~~employee~~ **worker** may apply to have the question determined by the Tribunal.
- (4) In this section, a question as to the particulars which ought to have been included —
- (a) in a pay statement, or in a standing statement of fixed deductions, does not include a question solely as to the accuracy of an amount stated in any such particulars;
 - (b) [Repealed]ⁱⁱⁱ
- (5) Where, on an application under subsection (1), the Tribunal determines particulars as being those which ought to have been included or referred to in a statement given under section 8 or 10, the employer shall be deemed to have given to the ~~employee~~ **worker** a statement in which those particulars were included, or referred to, as specified in the decision of the Tribunal.
- (6) On determining an application under subsection (2)(a), the Tribunal may either —
- (a) confirm the particulars as included or referred to in the statement given by the employer, or
 - (b) amend those particulars, or
 - (c) substitute other particulars for them,
- as the Tribunal may determine to be appropriate; and the statement shall be deemed to have been given by the employer to the ~~employee~~ **worker** in accordance with the decision of the Tribunal.
- (7) On determining an application under subsection (3), the Tribunal may either confirm the particulars to which the application relates, or may amend those particulars or may substitute other particulars for them, as the Tribunal may determine to be appropriate; and the statement shall be deemed to have been given by the employer to the ~~employee~~ **worker** in accordance with the decision of the Tribunal.
- (8) If, on an application under this section, the Tribunal finds that an employer has failed to give to an ~~employee~~ **a worker** a statement that complies with section 8 or 10, or one or more statements which comply with section 14 or 15, the Tribunal must make a declaration to that effect and —
- (a) if the Tribunal finds that a statement has been given to the ~~employee~~ **worker** but that it failed to comply with section 8, 10, 14 or 15, as the case may be, may, if it considers it just and equitable to do so, order the employer to pay to the ~~employee~~ **worker** a sum not exceeding 2 weeks' pay; or
 - (b) if the Tribunal finds that no statement has been given —

- (i) subject to subparagraph (ii) it must order the employer to pay to the ~~employee~~ **worker** a sum equal to 2 weeks' pay, but
- (ii) if it considers it just and equitable to do so it may order the employer to pay to the ~~employee~~ **worker** a greater sum not exceeding 4 weeks' pay.

For the purposes of this subsection a week's pay is to be calculated in accordance with Schedule 6 (a week's pay).^{iv}

- (8A) The Department may prescribe circumstances in which subsection (8)(a) or (b) is not to apply, or is to apply with prescribed modifications.^v
- (9) The Tribunal shall not entertain an application under this section in a case where the employment to which the application relates has ceased unless the application was made —
 - (a) before the end of the period of 3 months beginning with the date on which the employment ceased, or
 - (b) within such further period as the Tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the application to be made before the end of that period of 3 months.

18 Tribunal's duties in cases other than section 17

- (1) This section applies to proceedings before the Tribunal relating to a claim by an employee or a worker (as the case may be) under any of the jurisdictions listed in Schedule 1.
- (2) If, in proceedings to which this section applies, the Tribunal finds that at the time when the proceedings began the employer had failed to give the ~~employee~~ **worker** a statement that complied with section 8 or 10, the Tribunal —
 - (a) may, if it finds that a statement had been given but that it failed to comply with section 8 or 10, order the employer to pay to the ~~employee~~-**worker** a sum not exceeding 2 weeks' pay; or
 - (b) if it finds that a statement had not been given —
 - (i) subject to subparagraph (ii) must order the employer to pay to the ~~employee~~ **worker** a sum equal to 2 weeks' pay; but
 - (ii) if it considers it just and equitable to do so it may order the employer to pay to the ~~employee~~ **worker** a greater sum not exceeding 4 weeks' pay.

For the purposes of this subsection a week's pay is to be calculated in accordance with Schedule 6 (a week's pay).^{vi}

- (2A) The Department may prescribe circumstances in which subsection (2)(a) or (b) is not to apply, or is to apply with prescribed modifications.^{vii}
- (3) The Department may by order —
 - (a) amend Schedule 1 for the purpose of —
 - (i) adding a jurisdiction to the list in that Schedule, or
 - (ii) removing a jurisdiction from that list;

- (b) make provision, in relation to a jurisdiction listed in Schedule 1, for this section not to apply to proceedings relating to claims of a description specified in the order;
- (c) make provision for this section to apply, with or without modifications, as if —
 - (i) any individual of a description specified in the order who would not otherwise be an employee for the purposes of this section were an employee for those purposes, and
 - (ii) a person of a description specified in the order were, in the case of any such individual, the individual's employer for those purposes.

19 Offences

[P1991/19/11]

- (1) If a person without reasonable excuse fails to comply with the requirements of section 8 (written particulars of terms of employment), 10 (changes in terms of employment) or 14 (right to itemised pay statement), he or she shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (2) If, in a statement under section 8, 10, 14 or 15 (standing statement of fixed deductions) or in any document prepared for the purposes of section 8(5) or 9(2) (supplementary provisions: section 8), a person includes anything which to his or her knowledge is false in a material particular, or recklessly includes anything which is false in a material particular, he or she shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.
- (3) If an employer has failed to give a statement required by section 8(1) or section 10(1) within the time limited by the relevant section then, without prejudice to the bringing of proceedings under subsection (1), the Department may by notice in writing to the employer require him or her, within a period specified in the notice (not being less than one week from receipt of the notice), to make good his or her default, and if the default continues after the expiration of that period, the employer shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500 and to a further fine of £50 for every day on which the default continues after conviction.
- (4) Where an offence under this section is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, he or she, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (5) Where the affairs of a body corporate are managed by its members, subsection (4) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

20 Powers of entry etc.

[P1991/19/12]

- (1) A person authorised in writing by the Department may enter at all reasonable hours any premises where he or she has reasonable ground for supposing that any persons are employed, and make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Part are being or have been complied with in respect of any ~~employee~~ **worker**.
- (2) The following persons —
 - (a) the occupier of any premises liable to inspection under subsection (1);
 - (b) any person who is or has been employing another;
 - (c) the servants and agents of any such person as is referred to in paragraph (a) or (b);shall furnish to a person so authorised all such information, and produce for his or her inspection all such documents, as he or she may reasonably require for the purpose of ascertaining whether the provisions of this Part have been complied with.
- (3) For the purposes of this section the following provisions of the Social Security Administration Act 1992 (as that Act of Parliament has effect in the Island), apply as they apply for the purposes of section 121A(1) of that Act (relevant social security legislation) —
 - (a) section 109C(5) (inspector to produce certificate of his appointment if required to do so on applying for admission to any premises), and
 - (b) section 111 (delay, obstruction etc. of inspector),with the substitution for references to an inspector of references to a person so authorised.
- (4) In this section “premises” does not include a private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.

ⁱ Para (d) repealed by Pensions Act 2014 (of Parliament) as applied by SD2018/0076.

ⁱⁱ Subs (1) amended by Equality Act 2017 Sch 22.

ⁱⁱⁱ Para (b) repealed by Pensions Act 2014 (of Parliament) as applied by SD2018/0076.

^{iv} Subs (8) substituted by Equality Act 2017 Sch 22.

^v Subs (8A) inserted by Equality Act 2017 Sch 22.

^{vi} Subs (2) substituted by Equality Act 2017 Sch 22.

^{vii} Subs (2A) inserted by Equality Act 2017 Sch 22.