

EMPLOYMENT RELATIONS PROMULGATION 2007
(PROMULGATION NO. 36 OF 2007)

Wages (Building and Civil and Electrical Engineering Trades) Regulations 2015

In exercise of the powers conferred upon me by section 264(1)(w) of the Employment Relations Promulgation 2007, and following the advice of the Employment Relations Advisory Board, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Wages (Building and Civil and Electrical Engineering Trades) Regulations 2015.

(2) These Regulations shall come into force on 1st July, 2015.

Application

2. These Regulations shall apply to all workers whose minimum rate of remuneration without taking into consideration any allowance, bonus, overtime payment or additional payment whatsoever, whether in money or otherwise, does not exceed \$250.00 per week and who are employed in Fiji in any undertaking or part of an undertaking which consists in the carrying on, for gain, of one or more of the following activities concerned with the business of building or civil or electrical engineering—

- (a) the construction, structural alteration, maintenance, repair or demolition of any building, or the preparation for and laying the foundation of, any intended building;
- (b) the construction, structural alteration, maintenance, repair or demolition of any railway line or siding, airfield, dock, harbour, wharf, quay, pier, road, tunnel, bridge, viaduct, waterworks, dam, reservoir, pipeline, aqueduct, drain, drainage works, sewer or sewage works;
- (c) the generation of electricity or the installation, construction, demolition, alteration, maintenance, extension, renewal or repair of equipment, lines or other work in connection with the use or distribution of electricity;
- (d) any store or workshop operated wholly or mainly in connection with any of the works referred to in paragraphs (a), (b) or (c) or the repair, maintenance or testing of any machinery or mechanical or engineering equipment used in connection with such works.

Interpretation

3. In these Regulations, unless the context otherwise requires,—

“apprentice” has the meaning assigned to it by the Fiji National University Decree 2009;

- “clerk” means a worker who is employed wholly or mainly in performing one or more of the following classes of work; sorting of incoming mail, preparation of out-going correspondence, filing correspondence or other documents, receiving or interviewing callers, arranging appointments, attendance of telephones and the receiving and recording of messages by telephone, making entries in books showing receipts to, or payment from petty cash, shorthand writing, typing of correspondence, book keeping, operating of machine equipment for accounting, calculating, addressing, franking, copying and reproducing documents and drawings, preparing stencil, duplication or composing of office correspondence;
- “driver heavy goods” means a worker who is employed wholly or mainly in driving a mechanically propelled vehicle, exceeding 10 tons (10160kg) load capacity;
- “driver light goods” means a worker who is employed wholly or mainly in driving a mechanically propelled vehicle of 60 cwt (3360kg) or less unladen in weight;
- “five-day working week” means a working period of 45 hours made of 9 hours each day from Monday to the succeeding Friday, both days inclusive;
- “foreman” means a worker who supervises over 20 workers on a worksite;
- “general tradesman” means a semi or skilled tradesman;
- “heavy plant operator” means a worker who is required to operate any wheeled or trailed plant or equipment, which has a weight exceeding 10 tons or lifting capacity exceeding 10 tons;
- “leading hand” means a worker who supervises a minimum of 6 and a maximum of 20 workers on a worksite;
- “light plant operator” means a worker who is required to operate any wheeled or trailed plant or equipment, which has a weight exceeding 20 tons or lifting capacity exceeding 20 tons;
- “LMCCC” means the Labour Management, Consultation and Cooperation Committee;
- “night” means the interval between six o’clock in the evening of any day and six o’clock in the morning of the following day;
- “operator” means a worker who is normally required to operate heavy earth moving machinery;
- “overtime” means work performed in excess of the normal hours on a normal working day and all work performed on days other than a normal working day;
- “Promulgation” means the Employment Relations Promulgation 2007;

“public holiday” means any of the days specified in section 64 of the Promulgation or any day appointed by notification in the *Gazette* under section 66 of the Promulgation;

“tradesman class 1” means a worker who holds a tradesman class 1 trade test certificate issued by the Director of the Training and Productivity Authority of Fiji under the Fiji National Training (Trade Testing) Regulations 1976 or under the Fiji National University Decree 2009 and shall have a complete set of tools;

“tradesman class 2” means—

(a) a worker who holds a tradesman class 2 trade test certificate issued by the Director of the Training and Productivity Authority of Fiji under the Fiji National Training (Trade Testing) Regulations 1976 or under the Fiji National University Decree 2009; or

(b) a worker who has successfully completed an apprenticeship in any of the trades to which these Regulations apply, and has been awarded the Trade Course Certificate by Fiji Institute of Technology or Certificate of Apprenticeship awarded by the Training and Productivity Authority of Fiji or the National Training and Productivity Centre of the Fiji National University and shall have a complete set of tools;

“tradesman class 3” means a worker who holds a tradesman class 3 trade test certificate issued by the Training and Productivity Authority of Fiji under the Fiji National Training (Trade Testing) Regulations 1976 or under the Fiji National University Decree 2009;

“unskilled work” means work which requires no particular skill and includes the digging or filling of holes by using a pick or a shovel; clearing construction sites with hand tools; mixing and spreading mortar or cement with a hand shovel or rake; fragmenting stones or demolishing walls or other structure by hand pick or hammer, cleaning waste materials from workplaces or carrying materials to work places; lifting and stacking by hand bricks, timber and other materials or objects; digging or shovelling loose materials by hand; cutting or clearing under bush or trees; doing routine maintenance work on roads by using hand shovel; pick or other tools;

“unskilled worker” means a worker who is wholly or mainly employed with unskilled work;

“watchman” means a worker who is wholly or mainly employed on the watching or guarding of premises or stock;

“week” means a period of 7 consecutive days; and

“worker” means a worker to whom the Wages Regulation (Building and Civil and Electrical Engineering Trades) applies.

Rates of remuneration

4. The minimum hourly rates of remuneration to be paid to the class of workers specified in the first column of Schedule 1 hereto, whether such workers are employed hourly, daily, weekly or for any period, shall be those contained in the second column of Schedule 1.

Hours of work

5. The normal hours of work shall be 9 hours per day, for a 5 day week.

Public holidays

6. Every worker shall be paid in respect of each public holiday for the number of hours worked (exclusive of overtime) which he or she would normally have worked on that day had it not been a public holiday, provided that this regulation does not apply to any worker unless—

- (a) the worker worked for the employer throughout the last working day preceding the public holiday; and
- (b) the worker presents himself or herself for employment on the first working day after such public holiday,

and provided further that paragraphs (a) and (b) shall be deemed to have been complied with where the worker is excused from presenting himself or herself for employment by his or her employer, or is prevented from presenting himself or herself for employment by illness or injury covered by a medical certificate or is prevented from presenting himself or herself for employment by any other reason which the employer considers satisfactory.

Overtime

7.—(1) Overtime remuneration shall be paid to every worker employed on a 5 day working week for all time worked in excess of 9 hours on any working day during such week and for all time worked on Saturdays, Sundays and public holidays.

(2) The remuneration payable under sub-regulation (1) shall, in the case of public holidays, be in addition to that payable under regulation 6.

(3) The rate of remuneration payable for overtime shall be—

- (a) on week days, including Saturdays, one and a half times the worker's normal hourly rate of remuneration;
- (b) on public holidays and Sundays, twice the worker's normal hourly rate of remuneration; and
- (c) on days when a worker is required to continue work after midnight, twice the worker's normal hourly rate of remuneration for all work performed after midnight,

provided that subject to the provisions of regulation 8, the minimum payment for time worked on Sundays and public holidays shall be not less than the remuneration payable to the worker for 3 hours worked on such days.

(4) When overtime is necessary, it shall be so arranged that workers have at least 8 consecutive hours off duty between the works of successive days.

(5) If on the instruction of his or her employer a worker resumes or continues work without having had 8 consecutive hours off duty, he or she shall be paid at twice his or her hourly rate of remuneration until he or she is released from duty for such period, and he or she shall then be entitled to be absent until he or she has had 8 consecutive hours off duty without loss of remuneration for ordinary working time occurring during such absence.

Annual holidays

8. No deduction is to be made from a worker's remuneration in respect of annual holidays taken by a worker under section 58 of the Promulgation.

Attendance money

9. Every worker who presents himself or herself for work on any day which he or she is required by his or her employer to present himself or herself for work, but is prevented from working by reason of inclement weather, shall be paid—

- (a) for any day, other than a Sunday or a public holiday not less than the remuneration payable to such worker for 3 hours' work on that day; and
- (b) for a Sunday or public holiday, not less than the remuneration payable to such worker for 1 hour's work on that day and such remuneration shall be in addition to that payable under regulation 5.

Subsistence allowance

10. Every worker shall, in respect of each night during the whole of which he or she is required by his or her employer to be absent from the place where he or she was engaged for employment, be paid a subsistence allowance of not less than—

- (a) six dollars and fifty cents (\$6.50) if quarters is provided by his or her employer;
- (b) eight dollars and sixty cents (\$8.60) if his or her employer does not provide meals and quarters,

provided that where the employer provides meals and quarters, employees will not be entitled to subsistence allowance.

Meal allowance

11. Every worker who is required to work overtime in excess of 2 hours on any normal working day shall be entitled to a meal allowance of \$7.00 or a decent hot meal.

Sick leave

12.—(1) Where a worker who has completed more than 3 months continuous service with the same employer and who is incapable of work because of sickness or injury, the worker is entitled to paid sick leave of not less than 10 working days during each year of service.

(2) Sick leave entitlement must not be accumulated and unused sick leave for each year automatically lapses in the next year.

(3) For a worker to be entitled to sick leave, the worker must—

- (a) as soon as reasonably practicable notify the employer of his or her absence and the reason for it; and
- (b) produce, if requested by the employer, a written certificate signed by a registered medical practitioner, certifying the worker's incapacity for work.

Bereavement leave

13. A worker who has completed more than 3 months continuous service with the same employer is entitled to 3 days paid bereavement leave in a year, in addition to any other leave entitlement.

Occupational Health and Safety compliance

14.—(1) The employer has a duty of care responsibility under section 9 of the Health and Safety at Work Act 1996 to ensure, as far as possible, the workers' health, safety and welfare while at work.

(2) The Health and Safety at Work (General Workplace Conditions) Regulations 2003 specifies the conditions which must be followed by all employers in any workplace to ensure that the workers are protected according to the requirements of the Health and Safety at Work Act 1996 where, some of these requirements in these Regulations include the provisions of personal protective equipment, which must be provided by the employer without any cost to the employees.

Grievance procedure

15. In the case of a grievance in the workplace, the parties shall resort to the grievance procedure in the employment contract or in the absence of such contract, shall use the procedure stipulated in Schedule 4 of the Promulgation.

Labour Management, Consultation and Cooperation Committee

16.—(1) All employers with more than 20 workers are required by section 9(1)(d) and (3) of the Promulgation to have a Labour Management, Consultation and Cooperation Committee to assist them to review and develop work practices in order to promote good faith employment relations and increase productivity.

(2) Employers are required to complete LMCCC record forms as a general obligation to ensure the attainment of quality control.

Sexual harassment

17. All employers are required to develop and maintain a sexual harassment policy in the workplace and must take reasonable steps to prevent sexual harassment occurring at the workplace.

Notices

18.—(1) An employer shall display a written notice in the workplace for the purpose of informing the workers of any wages regulations affecting them.

(2) An employer that fails to comply with sub-regulation (1) commits an offence and shall be liable to a fixed penalty of \$100.

(3) If the employer fails to pay the fixed penalty within the specified period of time, the offender shall be liable on conviction—

- (a) for an individual, to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 2 years or both; or
- (b) for a body corporate, to a fine not exceeding \$50,000.

Revocation

19. The Wages Regulation (Building and Civil and Electrical Engineering Trades) Order 2012 is hereby revoked.

Made this 23rd day of June 2015.

J. K. KONROTE
Minister for Employment, Productivity and Industrial Relations

SCHEDULE
(*Regulation 4*)

| <i>Classes of Workers (First column)</i> | <i>Rates of Remuneration (Second column)</i> |
|--|--|
| Foreman | \$5.10 |
| Leading Hand | \$4.37 |
| Tradesman Class 1 | \$4.20 |
| Tradesman Class 2 | \$4.01 |
| Tradesman Class 3 | \$3.89 |
| General Tradesman | \$3.72 |
| Watchman | \$2.63 |
| Driver Light Goods | \$3.52 |
| Driver Heavy Goods | \$4.20 |
| Heavy Plant Operator | \$4.41 |
| Light Plant Operator | \$4.25 |
| Clerk | \$3.72 |
| Unskilled Workers | \$3.10 |