

**EXTRAORDINARY
FIJI ISLANDS GOVERNMENT GAZETTE SUPPLEMENT**

No. 4

FRIDAY 16TH JANUARY

2009

[LEGAL NOTICE No. 9]

WAGES COUNCILS

**[Part 6 Division 2 of Employment Relations
Promulgation 2007]**

NOTICE

THE Minister for Labour, Industrial Relations, Employment, Local Government, Urban Development, Housing and Environment having made the Wages Regulation (Building and Civil and Electrical Engineering Trades) Order 2008, and pursuant to the provisions of subsection (5) of Section 54 of the Employment Relations Promulgation 2007, hereby publishes the said Order.

Dated this 15th day of January 2009.

J. PULU
Acting Secretary
Building and Civil and Electrical
Engineering Trades Wages Council

It is provided by subsection (2) of section 13 of the Wages Councils Act as follows:

“An employer shall display a written notice in the workplace for the purpose of informing the workers of any proposed Wages Regulation Order or any Wages Regulation Order affecting them”.

It is provided further by subsection (2) of section 56 of the Employment Relations Promulgation 2007 as follows:

“An employer that fails to comply with subsection (1) commits an offence.”

The penalty for non-compliance is a fixed penalty of \$100. In the event of non-payment of the fixed penalty, the offender is 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;
- (b) for a company or corporation, to a fine not exceeding \$50,000.

WAGES REGULATION

[BUILDING AND CIVIL AND ELECTRICAL ENGINEERING TRADES] ORDER 2008

IN exercise of the powers conferred upon me by subsection (5) of Section 54 of the Employment Relations Promulgation 2007, and having received wages regulation proposals from the Building and Civil and Electrical Engineering Trades Wages Council, and the provisions of the said section having been otherwise complied with, have made the following Order:

Citation and commencement

1. This Order may be cited as the Wages Regulation (Building and Civil and Electrical Engineering Trades) Order, 2008 and comes into force on the 1st day of February 2009.

Application

2. This order shall apply to such of the 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 or Rotuma 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 connexion with the use of distribution of electricity;
- (d) any store or workshop operated wholly or mainly in connexion with any of the works referred to in sub-paragraphs (a), (b) or (c) or the repair, maintenance or testing of any machinery or mechanical or engineering equipment used in connexion with such works.

Interpretation

3. In this order, unless the context otherwise requires:—

“apprentice” has the meaning assigned to it by the Fiji National Training Act, or any other law amending or replacing the same.

“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 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 tonnes (10160kg) load capacity;

“driver light goods” means a worker who is employed wholly or mainly in driving a mechanically propelled vehicle of 60cwt (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 to whom the Wages Council (Building and Civil and Electrical Engineering Trades) Order applies and who supervise over twenty (20) workers on a worksite;

“general tradesman” means a semi or skilled tradesman to whom the Wages Council (Building and Civil and Electrical Engineering Trades) Order applies and who is not otherwise defined in this order;

“heavy plant operator” means a worker who is required to operate any wheeled or trailed plant or equipment, which has a weight exceeding 10 tonnes or lifting capacity exceeding 10 tonnes;

“leading hand” means a worker to whom the Wages Council (Building and Civil and Electrical Engineering Trades) Order applies and who supervises a minimum of six (6) and a maximum of twenty (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 tonnes or lifting capacity exceeding 20 tonnes;

“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 not otherwise defined in the order and is normally required to operate heavy earth moving machinery;

“public holiday” means any of the days specified in the section 64 of the Employment Relations Promulgation or any day appointed by notification under section 66 of that 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 and shall have a complete set of tools.

“tradesman class 2” means 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 a worker who has successfully completed an apprenticeship in any of the trades to which this order applies, 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 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;

“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 work places 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 routing 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;

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

Rates of remuneration

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

Hours of Work

5. The normal hours of work shall be 9 hours x 5 days i.e forty-five (45) hours in any one week.

Public Holidays

6. Every worker shall be paid in respect of each public holiday for the number of hours work (exclusive of overtime) which he would normally have worked on that day had it not been a public holiday.

Provided that this paragraph does not apply to any worker unless:

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

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

Overtime

7—(1) Overtime remuneration shall be paid to:—

(a) Every worker employed on a five 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-paragraph (2) shall in the case of public holidays, be in addition to that payable under paragraph 6.

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

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

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

(4) When overtime is necessary, it shall be so arranged that workers have at least eight consecutive hours off duty between the works of successive days. A worker who works so much overtime between the termination of his ordinary work on one day and the commencement of his ordinary work on the next day that he had not had at least eight consecutive hours off duty between those times, without loss of wages for ordinary working time occurring during such absences. If on the instruction of his employer such a worker resumes or continues work without having had said eight consecutive hours off duty, he shall be paid at twice his hourly rate of remuneration until he is released from duty for such period, and he shall then be entitled to be absent until he has had eight 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 workers remuneration in respect of annual holiday taken by a worker under Section 58 of the Employment Relations Promulgation 2007

Attendance money

9. Every worker who presents himself for work on any day which he is required by his employer to present himself 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 three hours work on that day; and
- (b) for a Sunday or public holiday, not less than the remuneration payable to such worker for one hours work on that day and such remuneration shall be in addition to that payable under paragraph 5.

Subsistence allowance

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

- (a) four dollars and sixty cents (\$4.60) if quarters is provided by his employer;
- (b) six dollars and sixty cents (\$6.60) if his employer does not provide meals and quarters.
- (c) 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 two hours on any normal working day shall be entitled to a meal allowance of four dollars and sixty cents (\$4.60).

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 of 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 three (3) months continuous service with the same employer is entitled to three (3) days paid bereavement leave in a year, in addition to any other leave entitlement.

Occupational Health and Safety Compliance

14. 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. The Health and Safety at Work (General Workplace Condition) 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 Act. Some of these requirements in these Regulations include the provisions of personal protective equipments, 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 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 (LMCC)

16. All employers with more than 20 workers are required by Sections 9(1)(d) and 9(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; and requiring employers to complete LMCC record forms as a general obligation to ensure the attaining of quality control.

Sexual Harassment

17. All employers are required to develop and maintain a Sexual Harassment Policy in the Workplace. They must take reasonable steps to prevent Sexual Harassment occurring.

Revocation

18. The Wages Regulation (Building and Civil and Electrical Engineering Trades) Order 2003 made on the 2nd June 2003 is revoked with effect from 1st February 2009

Dated at Suva this 15th day of January 2009.

F. BOLE

Minister for Labour, Industrial Relations, Employment,
Local Government, Urban Development Housing and Environment

SCHEDULE
(Paragraph 4)

<i>Classes of Workers</i>	<i>Rates of Remuneration</i> \$
Foreman	\$4.20
Leading Hand	\$3.60
Tradesman Class 1	\$3.45
Tradesman Class 2	\$3.30
Tradesman Class 3	\$3.20
General Tradesman	\$3.05
Watchman	\$2.16
Clerk	\$3.05
Unskilled Workers	\$2.55
Driver Light Goods	\$2.90
Driver Heavy Goods	\$3.45
Heavy Plant Operator	\$3.63
Light Plant Operator	\$3.50