

[LEGAL NOTICE NO. 11]

EMPLOYMENT RELATIONS PROMULGATION 2007  
(No. 36 OF 2007)

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## **Employment Relations (National Minimum Wage) Regulations 2014**

IN exercise of the powers conferred upon me by section 264 of the Employment Relations Promulgation 2007 and acting on the advice of the Employment Relations Advisory Board, I hereby make these Regulations—

### **TO ESTABLISH A NATIONAL MINIMUM WAGE FOR ALL WORKERS IN ALL WORKPLACES IN FIJI**

#### *Short title and commencement*

1. These Regulations may be cited as the Employment Relations (National Minimum Wage) Regulations 2014 and shall come into force on the 1<sup>st</sup> day of March 2014.

#### *Application*

2. These Regulations apply to all workplaces and all employers operating in Fiji who employ workers under a contract of service as defined under the Promulgation including, but not limited to, workers in a ship or aircraft of any kind registered in Fiji or owned by Government, whether or not the ship or aircraft is within the territorial waters, land or airspace of Fiji.

#### *Interpretation*

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

“equivalent hourly wage rate” means the hourly wage rate calculated from the salary or remuneration of a worker that is an equivalent hourly wage rate;

“Government” means the Government of the Republic of Fiji;

“Minister” means the Minister for Labour, Industrial Relations and Employment;

“Ministry” means the Ministry of Labour, Industrial Relations and Employment;

“national minimum wage” means the minimum wage established under regulation 4 which shall be the hourly wage rate or equivalent hourly wage rate below which all hourly wage rates in Fiji shall not be allowed;

“Promulgation” means the Employment Relations Promulgation 2007;

“Tribunal” means the Employment Relations Tribunal.

#### *Establishment of the national minimum wage*

4. The national minimum wage is fixed at two Fijian dollars (\$2.00) per hour.

*Enforcement of national minimum wage*

5.—(1) Where an employment contract provides for the payment of an hourly wage rate or an equivalent hourly wage rate which is less than the national minimum wage established under these Regulations, then the contract shall be null and void to the extent of the inconsistency and the national minimum wage shall have effect.

(2) Any employer or any other person authorised by or acting on behalf of the employer, who fails to comply with any provision of this regulation commits an offence and shall be liable to a fine not exceeding \$20,000 or a term of imprisonment not exceeding 2 years or both.

(3) Where proceedings are brought under sub-regulation (2) in respect of an offence for the payment of an hourly wage rate or equivalent hourly wage rate less than the national minimum wage, and—

(a) if the employer or any other person authorised by or acting on behalf of the employer charged, disputes the charges, evidence may be given of any like contravention on the part of the employer or such other person in respect of any period during the 6 years immediately preceding the date of the offence; and

(b) on proof of such contravention,

the Employment Relations Tribunal or the Employment Relations Court may order the employer to pay such sum as is found by the Tribunal or the Court to represent the difference between the amount which ought to have been paid during that period to the worker by way of remuneration, if the provisions of these Regulations had been complied with, and the amount actually paid to the worker.

(4) No evidence shall be given under sub-regulation (3)(a) unless notice of intention to give such evidence has been served upon the employer or any other person authorised by or acting on behalf of the employer, with the summons, warrant, information or complaint.

(5) The powers provided under these Regulations for the recovery of wages due from an employer to a worker in respect of the national minimum wage shall be in addition to and not in derogation from any existing right to recover other such wages from the Tribunal.

*Notices*

6.—(1) An employer shall display a written notice in the workplace for the purpose of informing the workers of any national minimum wage affecting them.

(2) Any employer that fails to comply with sub-regulation (1) commits an offence and shall be liable to a fine not exceeding \$20,000 or a term of imprisonment not exceeding 2 years or both.

*Fixed penalty notice*

7.—(1) A Labour Inspector may, in the prescribed form, institute proceedings for any offence committed under these Regulations by issuing a fixed penalty notice of \$100 to an employer or any other person authorised by or acting on behalf of the employer for non-compliance with any provision under these Regulations.

(2) If proceedings are instituted by means of serving a fixed penalty notice under sub-regulation (1) and the fixed penalty notice has been accepted by the payment of the fixed penalty, in accordance with any condition contained in the fixed penalty notice, that acceptance shall be deemed as a conviction for the offence in respect of which the fixed penalty notice was issued.

(3) In any proceedings, a certificate signed by the clerk of the court or an authorised officer that the fixed penalty was or was not paid shall, unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

(4) Any employer or person authorised by or acting on behalf of the employer, who contravenes regulation 5 and has accepted the fixed penalty notice under sub-regulation (2) shall pay, to the worker in respect of which the offence was committed, such sum representing the difference between the amount which ought to have been paid during that period to the worker by way of remuneration and the amount actually paid to the worker.

*Review of national minimum wage*

8.—(1) The Ministry shall review the national minimum wage established under these Regulations after such time as determined by the Minister.

(2) The review under sub-regulation (1) shall be undertaken in consultation with the Employment Relations Advisory Board, and other relevant stakeholders.

(3) The Minister may, by a Notice in the *Gazette*, issue an Order establishing a reviewed national minimum wage.

*Effect of national minimum wage*

9. The national minimum wage established under these Regulations shall not affect the Wages Regulations Orders 2012.

Dated this 28th day of February 2014.

J. USAMATE  
Minister for Labour,  
Industrial Relations and Employment