

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

Wages (Mining and Quarrying) 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 (Mining and Quarrying) Regulations 2015.

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

Application

2.—(1) These Regulations shall apply to all workers engaged in the Mining and Quarrying Industry and whose minimum rate of remuneration, without taking into consideration any allowance, bonus, overtime payment or additional benefit whatsoever, whether in money or otherwise, does not exceed \$250.00 per week and who are employed in Fiji in such undertaking or any part thereof in respect of which a licence under the Mining Act (Cap. 146) is in force or is required by law for such undertaking and their employers.

(2) These Regulations do not apply to—

- (a) any worker to whom the Wages Regulation (Mining and Quarrying Industry) Order 2012 does not apply; or
- (b) any apprentice employed under a contract of apprenticeship entered into in accordance with the provisions of the Fiji National University Decree 2009.

Interpretation

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

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

“assistant miner/scrapper” means a worker who is working as an operation/timber man/ magazine attendant with more than one year experience;

“casual worker” means a worker whose terms of engagement provide for the worker’s payment at the end of each day’s work and who is not re- engaged within the 24 hour period immediately following the payment;

“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 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;

“LMCCC” means the Labour Management, Consultation and Cooperation Committee;

“machinist” means a worker with the necessary skills engaged to take charge of and/or operate any machine, which is stationary and used in the Mining and Quarrying Industries;

“miner” means a worker who has successfully completed training requirements for a period of one year, possesses a valid Blasters License Certificate and has worked as an Assistant Miner/Scraper, Operation/Timber man for more than 3 years;

“operator” means a worker who is not otherwise defined in these Regulations and 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” refers to Employment Relations Promulgation 2007;

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

“rostered day-off” means that any day of each week on which a worker is entitled in terms of his or her contract to be absent from his or her duty;

“skilled worker” means a worker engaged to perform tasks not described in the Regulations but a worker who has successfully undertaken relevant training and possesses necessary skills for carrying out work associated with the industry;

“technical services” means a worker with at least one year experience on the job on either Survey, Geology, Lab or Ventilation;

“tradesman” means a worker who holds a tradesman certificate relevant to the industry and issued by the Training and Productivity Authority of Fiji or the Fiji National University or equivalent qualification obtained from a tertiary institution and has worked for three years in the industry;

“tradesman trainee” means a worker who holds a tradesman certificate relevant to the industry and issued by the Training and Productivity Authority of Fiji or the Fiji National University or equivalent qualification obtained from a tertiary institution but has no work experience in the industry;

“unskilled worker” means a worker who performs tasks which require no particular skill or who is not otherwise defined in these Regulations;

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

“worker” means a worker to whom these Regulations apply.

Rates of remuneration

4.—(1) The minimum hourly rates of remuneration to be paid to the classes of workers specified in the first column of the Schedule, whether such workers are to be paid hourly, daily, weekly or for any period, shall be those contained in the second and third column of the Schedule as the case requires.

(2) The minimum rates of remuneration to be paid to casual workers of the classes specified in the first column of the Schedule shall be twenty-five per cent more than the minimum rates specified in the second and third column of the Schedule.

Hours of work

5.—(1) Subject to sub-regulations (2) and (3), an employment contract must fix at not more than 45 or 48 the maximum number of hours (exclusive of overtime) to be worked in a week by a worker bound by that contract.

(2) If the number of hours (exclusive of overtime) fixed by an employment contract to be worked by a worker in a week is 45 hours, the parties must fix the daily working hours so that those hours are worked on not more than 5 days.

(3) If the maximum number of hours (exclusive of overtime) fixed by an employment contract to be worked by a worker in a week is 48, the parties must fix the daily working hours so that those hours are worked on not more than 6 days.

Public holidays

6. Every worker shall be paid in respect of each public holiday for the number of hours worked (exclusive of overtime) which the worker 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 had worked for the employer throughout the last working day preceding the public holiday; and
- (b) the worker presents himself or herself for employment at the usual starting time 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 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 cause acceptable to the employer.

Rest day

7.—(1) In each week, a worker shall be entitled to a rest day herein referred to as the rostered day-off, which shall be determined by the employer and notified to the worker not less than seven days in advance of such day.

(2) In the event of the rostered day-off falling on a public holiday, in respect of workers engaged on six days working week only, shall be entitled and granted an additional day off as rostered day-off.

Outstation allowance

8.—(1) The employer shall make appropriate travel arrangements and provide suitable accommodation and food to workers required to work away from the place of employment.

(2) Where the worker makes his or her own travel, accommodation and food arrangements or either of them, the employer shall reimburse to the worker, the cost of such travel, accommodation and food as may be agreed between the employer and the worker concerned.

Meal allowance

9. Every worker who is required to work overtime in excess of 3 hours on any normal working day or shifts shall be entitled to a meal allowance of \$6.00 or a decent hot meal.

Overtime

10.—(1) Overtime work shall be all work performed—

- (a) in excess of normal hours on a normal working day;
- (b) on days other than the normal working days;
- (c) rostered days off and public holidays.

(2) The rate of remuneration payable for overtime work to a worker shall be—

- (a) one and a half times the worker's normal hourly rate of remuneration in respect of first 4 hours worked in excess of normal working hours and twice the worker's normal rate of remuneration for all time worked thereafter;
- (b) twice the worker's normal rate of remuneration in respect of all time worked on a rostered day-off;
- (c) one and a half times the worker's normal hourly rate of remuneration in respect of all time worked on a public holiday;
- (d) for workers engaged on five day working week at one and a half times the normal rate of remuneration for the first 4 hours worked on Saturday and thereafter including Sunday at twice the worker's normal rate of remuneration.

Sick leave

11.—(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

12. 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

13.—(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 Condition) Regulations 2003 specifies the conditions which must be followed by all employers in any work place 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

14. 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

15.—(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 must complete LMCCC record forms as a general obligation to ensure the attaining of quality control.

Other allowances

16.—(1) A worker shall be entitled to tool allowance of \$70.00 per annum if the said worker is required by his or her employer to provide his or her own set of tools as agreed between the said worker and the employer to carry out his or her normal and routine duties.

(2) A worker shall be entitled to height allowance of 24 cents (twenty-four cents) per hour if the said worker is required by the employer to work at a height of over and above 7.5 metres unless he or she works on a properly constructed fixed structure.

(3) Any surface worker who is required by his or her employer to work underground shall be paid underground allowance at the rate of 14 cents (fourteen cents) per hour.

Sexual harassment

17. All employers are required to develop and maintain a policy to prevent sexual harassment in 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 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 (Mining and Quarrying Industry) Order 2012 is hereby revoked.

Made this 23rd day of June 2015.

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

SCHEDULE

MINIMUM REMUNERATION
(Regulation 4)

MINING

<i>Class of workers</i>	<i>Minimum Hourly Rate of Remuneration</i>	
<i>(First column)</i>	<i>(Second column – underground)</i>	<i>(Third column – surface rates)</i>
Clerk	\$3.17	\$3.17
Machinist	\$3.44	\$3.26
Miner	\$4.58	\$4.40
Assistant Miner/Scraper	\$3.44	\$3.26
Operator	\$3.52	\$3.35
Skilled Worker	\$3.44	\$3.26
Technical Services	\$3.44	\$3.26
Tradesman	\$3.86	\$3.69
Tradesman Trainee	\$3.35	\$3.17
Unskilled Worker	\$2.99	\$2.82

QUARRYING

<i>Class of workers</i>	<i>Minimum Hourly Rate of Remuneration</i>	
<i>(First column)</i>	<i>(Second column – underground)</i>	<i>(Third column – surface rates)</i>
Clerk	\$3.17	\$3.17
Machinist	\$3.44	\$3.26
Miner	\$4.58	\$4.40
Assistant Miner/Scraper	\$3.44	\$3.26
Operator	\$3.52	\$3.35
SkilledWorker	\$3.44	\$3.26
Technical Services	\$3.44	\$3.26
Tradesman	\$3.86	\$3.69
TradesmanTrainee	\$3.35	\$3.17
UnskilledWorker	\$2.99	\$2.82