

Labour – Management, Consultation and Cooperation Committee

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Sexual Harassment

18. All employers are required to develop and maintain a policy to prevent sexual harassment in the workplace.

Revocation

19. The Wages Regulation (Manufacturing Industry) Order 2009 is revoked with effect from the 1st day of May, 2011.

Dated at Suva this 25th day of April, 2011.

F. N. BOLE
Minister for Labour,
Industrial Relations and Employment

[LEGAL NOTICE NO. 40]

WAGES COUNCIL

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

NOTICE

THE Minister for Labour, Industrial Relations and Employment having made the Wages Regulation (Hotel and Catering Trades) Order 2011, and pursuant to section 54(5) of the Employment Relations Promulgation 2007, hereby publishes the said Order.

Dated this 21st day of April 2011.

S. LESI
Secretary
Hotel and Catering Trades Wages Council

It is provided by section 56 (1) of the Employment Relations Promulgation 2007 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 section 56 (2) 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 \$100.00. 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 \$10,000.00 or to a term of imprisonment not exceeding 2 years or both;
- (b) for a company or corporation, to a fine not exceeding \$50,000.00.

WAGES REGULATION
(HOTEL AND CATERING TRADES) ORDER 2011

IN exercise of the powers conferred upon me by section 54 subsection (5) of the Employment Relations Promulgation 2007, having received wages regulation proposals from the Hotel & Catering 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 (Hotel and Catering Trades) Order, 2011 and is deemed to have come into force on 1st May, 2011.

Application

2. This Order shall apply to all workers 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 any undertaking or any part of the business of which includes the supply of food or drink for sale for immediate consumption or consumption on the premises or the provision of living accommodation for five or more adult guests or lodgers, and their employers.

Interpretation

3. In this Order unless the context otherwise requires—
 - “barman” means a worker who is employed wholly or mainly in mixing, dispensing and serving alcoholic and non-alcoholic beverages at bars or on duties ancillary to those tasks;
 - “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, that is to say, sorting incoming mail, preparing outgoing correspondence, filing correspondence or other documents, receiving and documenting guests, receiving and recording messages by telephone, making entries in books showing receipts to or payments from petty cash, shorthand writing, typing correspondence, book-keeping, operating machine equipment for accounting, calculating, addressing, franking, copying and reproducing documents and drawings, preparing stencils, duplicating or composing office correspondence;

- “cook” means a worker who is employed wholly or mainly in preparing and cooking the dishes normally listed on the menu of the institution where he works, including the mixture of two or more ingredients or the preparation and cooking of meat, poultry, game or fish and on duties ancillary to any of those tasks;
- “day” means a continuous period of twenty four hours beginning at midnight on any day and ending at midnight the following day;
- “general worker” means a worker who is employed wholly or mainly in performing tasks, which requires no particular skill, not being a worker of any other kind specified in this Order;
- “house worker” means a worker who is employed wholly or mainly in all or any of the tasks that is to say cleaning and servicing guest rooms, cleaning bathrooms, corridors, staircases, lounges, dining rooms and restaurants, or on duties ancillary to those tasks;
- “kitchen-hand” means a worker who is employed wholly or mainly in assisting a cook;
- “laundry-hand” means a worker who is employed wholly or mainly in washing, drying or ironing clothing, bedding or furnishing or on duties ancillary to those tasks;
- “licensed undertaking” means an undertaking in respect of the whole or part of which a license under the Liquor Act is in force;
- “night attendant” means a worker who is employed wholly or mainly on night work performing various tasks including carrying luggage, cleaning shoes, attending to the requirements of guests or clients, attending telephones or any other duties ancillary to any of those tasks;
- “outer island business” means a business of hotel and catering trades operated outside the mainland of Viti Levu, Vanua Levu, Ovalau and Taveuni not accessible by road;
- “outdoor worker” means a worker who is employed wholly or mainly on outdoor work in connection with the employer’s trade or business, including the cultivation of flowers, shrubs, trees or other plants, the preparation of soil for planting or transplanting, pruning plants, weeding, mowing lawns, taking care of plants, removing or disposing of refuse or duties ancillary to any of those tasks;
- “public holiday” means any of the days specified in section 64 of the Promulgation or any day appointed by notification under section 66 of the Promulgation;
- “part-time worker” means a worker who is employed on a weekly contract of service and, at his own request, works less than forty-eight hours per week;

“Promulgation” means the Employment Relations Promulgation of 2007;

“student trainee” means:

- (a) an employee who is undertaking full-time course of instruction at the Fiji National University or any recognised tertiary institution; or
- (b) any employee who:
 - (i) is under the age of 18 years; or
 - (ii) having attained the age of 18 years, has not previously worked in any undertaking to which the Hotel and Catering Trades Wages Council Order relates, and is undertaking a training programme that is approved by the Fiji National University or any recognised tertiary institution as being a programme;
 - (iii) under which the training provided is supervised by a registered Training Officer, and shall not be rostered as a regular employee and provided free meals and travel allowance during the period of attachment;
 - (iv) the duration of which, in the case of an employee who has attained the age of 18 years, is attached for only 3 months.
 - (v) they will be paid a Training Allowance of \$50 a week irrespective of whether under 18 years or over 18 years.

“waiter” means a worker who is employed wholly and mainly in the serving of food or drinks at tables or on duties ancillary to those tasks;

“watchman” means a worker who is employed wholly or mainly in the watching or guarding of premises or property and any items therein;

“week” means the period of 7 consecutive days.

Rates of Remuneration

4.—(1) The minimum rates of remuneration to be paid to workers other than casual workers are specified in the tables set out in the Schedule.

(2) The minimum rates of remuneration to be paid to casual workers shall be twenty-five per centum more than those specified in the Schedule.

Rest day

5.—(1) In each week a worker shall be entitled to one rest day, which shall be determined by the employer and notified to the worker not less than a week in advance of that day except for the workers employed by the employers in outer islands under the arrangements made by the following sub-clause (2), in which case the notice shall not be less than a fortnightly or a month in advance of such rest days as the case may be.

(2) All workers engaged by the employers operating business in outer island shall be permitted to grant “rest days” to such workers as follows—

- (i) after having worked for 12 consecutive days, the employer shall grant 3 consecutive days off; or
- (ii) after having worked for 24 consecutive days, the employer shall grant 5 consecutive days off.

Working week

6. The normal working week shall consist of forty-eight hours spread over six days in any one week.

Split shifts

7.—(1) Where a worker is required to work his normal hours of work in separate shifts—

- (a) the normal hours of work in a day shall be worked in not more than two shifts;
- (b) those shifts shall be completed within 13 hours, computed from starting to finishing time, including meal breaks; and
- (c) if the worker is actually required to work fewer hours than are specified in his contract, the worker shall be paid for the minimum number of hours so specified.

(2) A worker who is required to work his normal hours of work in separate shifts shall be entitled to payment of shift allowance of \$1.15 cents per day in addition to his/her normal rate of remuneration.

(3) For the purpose of this paragraph, a meal break not exceeding one hour in duration shall not constitute a break between shifts.

Public Holiday

8. Every worker shall be paid in respect of each public holiday for the number of hours worked (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 workers 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

9. Overtime remuneration shall be paid to every worker in the classes mentioned in the Schedule—

- (a) for the first four hours worked in excess of eight hours on each day other than the rostered day off applicable to the worker concerned, at one and one-half times the worker's normal rate of remuneration and for all overtime worked thereafter on such day, at twice the worker's normal rate of remuneration;
- (b) for all the time worked on the worker's rostered day off, at twice the worker's normal rate of remuneration.

Annual Holiday

10. All workers shall be given annual holidays in accordance with the provision of section 58 of the Promulgation.

Night Shift Allowance

11. Night shift allowance, at the rate of 11 cents per hour, is payable in addition to the wages otherwise payable to a worker in relation to time worked by the worker, not being overtime commencing between 10pm on one day and 6am on the day immediately following.

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.

Meal Allowance

13. Every worker who is required to work overtime in excess of two hours on any normal working day or shift shall be entitled to meal allowance of \$5.50 or a decent hot meal.

Bereavement Leave

14. 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

15. 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 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 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

16. 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

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Sexual Harassment

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Revocation

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F. N. BOLE
Minister for Labour,
Industrial Relations and Employment

SCHEDULE

<i>Class of Workers</i>	<i>Licensed Undertaking</i>	<i>Other Undertaking</i>
Barman	\$2.92	\$2.64
Clerk	\$2.86	\$2.59
Cook	\$2.97	\$2.70
General Worker	\$2.75	\$2.53
House Worker	\$2.75	\$2.53
Kitchen Hand	\$2.75	\$2.53
Laundry Hand	\$2.75	\$2.53
Night Attendant	\$2.75	\$2.53
Outdoor Worker	\$2.75	\$2.53
Student Trainee	-	-
Waiter	\$2.75	\$2.53
Watchman	\$2.75	\$2.53