

FIJI ISLANDS GOVERNMENT GAZETTE SUPPLEMENT

No. 20
FRIDAY, 20th MAY**2011**

[LEGAL NOTICE NO. 37]

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 (Mining & Quarrying Industry) Order 2011 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
Mining & Quarrying Industry 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. 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 (MINING AND QUARRYING INDUSTRY) ORDER 2011

In exercise of the powers conferred upon me by section 54 (2) of the Employment Relations Promulgation 2007, having received wages regulation proposals from the Mining and Quarrying Industry Wages Council, and the provisions of the said section having been otherwise complied with, make the following Order:

Citation and commencement

1. This Order may be cited as the Wages Regulation (Mining and Quarrying Industry) Order 2011, and is deemed to have come into force on 1st day May, 2011.

Application

2. This Order does not apply to—
 - (a) any worker to whom the Wages Council (Mining and Quarrying Industry) Order 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 (Amendment) Decree 2010.

Interpretation

3. In this Order, unless the context otherwise requires—
 - “apprentice” has the meaning assigned to it by the Fiji National University (Amendment) Decree 2010;
 - “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 twenty-four (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 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;
 - “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 have worked as an Assistant Miner/Scraper, Op/Timberman for more than 3 years;
 - “assistant miner/scraper” means a worker who is working as an operation/timberman/magazine attendant with more than a year experience;
 - “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 section 64 of the Promulgation or any day appointed by notification under section 6 of that Promulgation;

- “Promulgation” means the Employment Relations Promulgation of 2007;
- “rostered-day-off” means that any day of each week on which a worker is entitled in terms of his contract to be absent from his duty;
- “skilled worker” means a worker engaged to perform tasks not described in the order but a worker who has successfully undertaken relevant training and possess 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 the following; Survey or Geology or 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 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 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 this Order;
- “week” means a period of 7 consecutive days.

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 to be paid hourly, daily, weekly or for any periods, 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 subsections (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 or more, but less than 48 hours as mentioned in subsection (1), 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 hours or more as mentioned in subsection (1), 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 paragraph 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;

Provided further that sub-paragraphs (a) and (b) of the preceding provision 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. In each week a worker shall be entitled to a rest day herein referred to as the rostered day-off, this shall be determined by the employer and notified to the worker not less than seven days in advance of such day. 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 arrangement 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 \$5.50 or a decent meal pack.

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 half time the worker's normal hourly rate of remuneration in respect of first four hours worked in excess of normal working hours and twice the worker's normal rate of remuneration for all times 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 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 half times the normal rate of remuneration for the first four hours worked on Saturday and thereafter including Sunday at twice the workers' 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. 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

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(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

(2) All Wages Regulation Orders are to have a provision requiring employers to complete the Labour-Management Consultation and Co-operation Committee 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 meters unless he 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.

Revocation

17. The Wages Regulation (Mining and Quarrying Industry) Order 2009 is revoked with effect from 1st May, 2011.

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

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

SCHEDULE

MINIMUM REMUNERATION
(Paragraph 4)

<i>Class of Workers (First Column)</i>	<i>Minimum Hourly Rate of Remuneration</i>	
	<i>(Second Column - u/ground)</i>	<i>(Third Column/surface rates)</i>
Clerk	\$2.79	\$2.79
Machinist	\$3.03	\$2.87
Miner	\$4.03	\$3.87
Assistant Miner/Scraper	\$3.03	\$2.87
Operators	\$3.10	\$2.95
Skilled Worker	\$3.03	\$2.87
Technical Services	\$3.03	\$2.87
Tradesman	\$3.40	\$3.25
Tradesman Trainee	\$2.95	\$2.79
Unskilled Worker	\$2.63	\$2.48