

[LEGAL NOTICE NO.75]

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 (Manufacturing Industry) Order 2012 and pursuant to section 54 (5) of the Employment Relations Promulgation 2007 hereby publishes the said Order.

Dated this 2nd day of October, 2012.

S. LESI
Secretary
Manufacturing 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-

- for an individual, to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 2 years or both;
 - for a company or corporation, to a fine not exceeding \$50,000.

WAGES REGULATION
(MANUFACTURING INDUSTRY) ORDER 2012

IN exercise of the powers conferred upon me by section 54 (5) of the Employment Relations Promulgation 2007, having received wages regulation proposals from the Manufacturing Industry Wages Council, and the provisions of the said section having been otherwise complied with, I hereby make the following Order -

Citation and commencement

1. This Order may be cited as the Wages Regulation (Manufacturing Industry) Order 2012, and shall come into force on 31st October, 2012.

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 per week and who are employed in any undertaking or any part of an undertaking engaged in a Manufacturing process in respect of which a license under the Business Licensing Act (Cap. 204) is in force or is required, by law in respect of such undertaking and their employers.

Interpretation

3. In this Order, unless the context otherwise requires –

“Act” refers to Health and Safety at Work Act 1996;

“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;

“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;

“week” means a period of 7 consecutive days.

Rates of remuneration

4. - (1) The minimum hourly rates of remuneration to be paid to any worker, whether paid hourly, daily, weekly or for any period is \$3.02.

(2) The minimum hourly rate of remuneration to be paid to a casual worker is \$3.78

Working week

5. - (1) A working week consists of not more than 48 hours spread over a maximum of 6 days per week.

(2) For workers required to work for 6 days a week, the normal hours of work per day are 8 and for workers required to work 5 days a week, the normal hours of work per day are 9.

Shift work

6. - (1) If a worker's normal hours of work are on a shift basis—

- the normal hours of work per shift are as specified in paragraph 5(2); and
 - if the number of hours actually worked during a shift is less than the number of hours specified for the shift, the worker must be paid for the full shift and for the purposes of paragraph 8 is to be regarded as having worked for a full shift.

(2) For the purpose of this paragraph a meal break not exceeding one hour does not constitute a break between shifts.

Public holidays

7. - (1) Subject to sub-paragraph (2), every worker must be paid at his or her normal rate of pay in respect of each public holiday for the number of hours (exclusive of overtime) which the worker would normally have worked on that day had it not been a public holiday.

(2) This paragraph does not apply to a worker unless the worker –

- (a) worked for the employer throughout the last working day preceding the public holiday; and
- (b) presented himself or herself for work on the first working day after the public holiday.

(3) Sub-paragraph (2) is complied with if the worker is-

- excused from work by the employer;
 - prevented from working by illness or injury verified by a medical certificate; or
 - prevented from working by any other cause acceptable to the employer.

Rest day

8. - (1) A worker who is normally required to work for 6 days a week is entitled to one rest day in each week.
- (2) A worker who is normally required to work for 5 days a week is entitled to 2 consecutive rest days each week.
- (3) If a rest day coincides with a public holiday the worker is entitled to an alternative rest day.

Overtime

9. - (1) Overtime pay must be paid to—

(a) every worker employed for 5 days or less a week – for all time worked in excess of 9 hours on any working day during a week, and for all hours worked on any rest day or public holiday; for all the time worked on a paid public holiday at twice the normal hourly rate of pay;

(b) every worker employed on a 6 day working week for all hours worked—

- (i) in excess of 8 hours on any day of the week;
- (ii) on any rest day or public holiday.

(2) Overtime pay payable under sub-paragraph (1) for a public holiday is in addition to that payable under paragraph 7.

(3) The rate of remuneration payable for overtime worked—

(a) by a worker to whom sub-paragraph (1)(a) applies is—

- (i) on any working day and on the first rest day - one and half times the worker's normal hourly rate of pay for the first four hours and thereafter twice the worker's normal hourly rate of pay;
- (ii) on the second rest day and on a public holiday – twice the worker's normal hourly rate of pay.

(b) by a worker to whom sub-paragraph (1)(b) applies is—

- (i) on any working day – one and a half times the worker's normal hourly rate of pay for the first 4 hours and thereafter twice the worker's normal hourly rate of pay;

(ii) on a rest day or public holiday – twice the worker’s normal hourly rate of pay.

(4) A minimum of 4 hours overtime pay at the rates specified in sub-paragraph (3) must be paid in respect of any overtime worked on a rest day or a public holiday.

Sick leave

10. – (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) 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

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 \$6.00 or a decent hot meal.

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.

Annual holiday

13. No deduction is to be made from a worker’s remuneration in respect of any annual holiday taken under section 58 of the Promulgation..

Night allowance

14. Night allowance at the rate of 20 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 10.00 pm on one day and 6.00 am on the following day.

Occupational Health and Safety compliance

15. – (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 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 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

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 (LMCCC)

17. 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.

(2) Employers must complete LMCCC forms as a general obligation to ensure the attaining of quality control.

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 2011 is hereby revoked.

Dated at Suva this 30th day of October 2012.

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JONE USAMATE
Minister for Labour,
Industrial Relations and Employment