
[LEGAL NOTICE NO. 59]

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

Wages (Wholesale and Retail Trades) 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 (Wholesale and Retail Trades) Regulations 2015.

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

Application

2. These Regulations shall apply to such 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 Fiji in any undertaking, any part of the business of which is wholesale trade or retail trade or wholesale and retail trade as come into any of the following categories, and their employers—

- (a) workers employed in or about a shop on operations carried on for the purpose of selling goods or the preparation of goods for sale;
- (b) workers employed in warehouses and stores in connection with warehousing or storing of goods which are to be sold;
- (c) workers employed in transporting goods in connection with their sale, warehousing or storing;
- (d) watchman employed in or about shops, warehouses or stores; and
- (e) clerical workers.

Interpretation

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

“cashier” means a worker who is engaged wholly or mainly in receiving cash for sales affected in his or her employer’s trade;

“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 mails, preparation of out-going correspondences, filing correspondences or other documents, receiving or interviewing callers, arranging appointments, attendance of telephones and the receiving and recording of 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 correspondences;

“driver” means a worker who is employed wholly or mainly in driving a mechanically propelled vehicle for the transport of goods in connection with their sale, warehousing or sorting;

“fork-lift operator” means a worker who is employed wholly or mainly in operating a power driven fork-lift for any purpose connected with the business of his or her employer;

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

“other worker” means a worker engaged to perform tasks not described in the Schedule, but a worker who possesses necessary skills for carrying out work associated with the wholesale and retail trades;

“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;

“packer” means a worker who is employed wholly or mainly in packing goods;

“Promulgation” means the Employment Relations Promulgation 2007;

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

“salesman” means a worker who is wholly or mainly engaged in selling, canvassing or otherwise soliciting for sales either in a store or outside from place to place;

“sewing machinist” means a worker who is employed wholly or mainly in operating a sewing machine for any purpose connected with the business of his or her employer;

“shop assistant” means a worker who is employed wholly or mainly in a shop serving customers and performing duties incidental thereto;

“storeman” means a worker who is employed wholly or mainly in a store in checking stock in or out, issuing stock, or caring for stock;

“unskilled worker” means a worker who is employed wholly or mainly on any of the following duties that is, the opening, closing, sweeping and cleaning of premises and the lifting, carrying and opening of goods, or on manual work of a similar nature, or on any duty not otherwise specified in these Regulations in any establishment to which the provisions of the Wages Regulation (Wholesale and Retail Trades) Order 2012 applies;

“watchman” means a worker who is employed wholly or mainly on the watching or guarding of premises or stock;

“week” means a period of 7 consecutive days;

“week day” means any day of the week other than a Sunday or public holiday; 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 other periods, shall be those contained in the second column of the Schedule.

(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 percent more than the minimum rates specified in the second column of the Schedule.

Public holidays

5. Every worker shall be paid in respect of each public holiday for the number of hours worked (exclusive of overtime) which he or she 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 worked for the employer throughout the last working day preceding the public holiday; and

- (b) the worker presents himself or herself for employment 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 excused from presenting himself or herself for employment by his or her employer or 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 reason which the employer considers satisfactory.

Hours of work

6.—(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 as prescribed by 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 as prescribed by subsection (1), the parties must fix the daily working hours so that those hours are worked on not more than 6 days.

(4) The normal hours of work for a watchman shall be 8 hours a day for six days a week, and may be worked during any six days or any week beginning from midnight on Saturday to midnight on the succeeding Saturday.

(5) In each week a watchman is entitled to one rest day hereinafter referred to as the “rostered day-off” which shall be determined by the employer and notified to the watchman no less than one week in advance of the week within which it falls.

Overtime

7.—(1) Overtime remuneration shall be paid to—

- (a) every worker employed for five days or less per working week for all time worked in excess of 9 hours on any working day during such week;
- (b) every worker employed on a six-day working week for all time worked in excess of 8 hours on any working day during such week, public holidays; and
- (c) every watchman employed on a six-day week for all time worked in excess of 8 hours on any working day and for all time worked on the rostered day-off.

(2) The remuneration payable under the provisions of sub-regulation (1) shall in the case of paid public holidays be in addition to that payable under regulation 5.

(3) The rate of remuneration payable for overtime worked by workers in sub-regulation (1)(a) and (b) shall be—

- (a) on weekdays, one and one-half times the worker’s normal hourly rate of remuneration for the first two hours and thereafter at twice the worker’s normal hourly rate of remuneration;
- (b) on public holidays, twice the worker’s normal hourly rate of remuneration.

(4) At least 4 hours overtime remuneration at the rate specified in sub-regulation (3)(b) shall be paid in respect of any overtime on public holidays, provided that in the case of emergency which could not have been controlled or foreseen, and which is not of a regular periodical nature, where no notice has been given by the employer on a day previous to the said emergency, at least 2 hours overtime remuneration shall be paid.

Sick leave

8.—(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 be paid sick leave of not less than 10 working days during each year of service.

(2) Sick leave entitlements must not be accumulated and unused sick leave for each year automatically lapses.

(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

9. Every worker who is required to work overtime in excess of 2 hours on any normal working day shall be entitled to a meal allowance of \$6.00 or a decent hot meal.

Subsistence allowance

10. Every worker shall in respect of each night during the whole of which he or she is required by his or her employer to work in a location (or workplace) different from the worker's usual workplace or place of engagement for employment, be paid a subsistence allowance of not less than—

- (a) \$25.00 per day, if accommodation without meals, is provided by the employer; or
- (b) \$35.00 per day, if neither the accommodation nor meals, is provided by the employer,

provided in the event where a worker is supplied with accommodation and meals by his or her employer, he or she shall not be entitled to any allowance.

Bereavement leave

11. 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

12.—(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 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

13. 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

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

Sexual harassment

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

Notices

16.—(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 a 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

17. The Wages Regulation (Wholesale and Retail Trades) Order 2012 is hereby revoked.

Made this 23rd day of June 2015.

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

SCHEDULE
(Regulation 4)

<i>Class of Workers [First Column]</i>	<i>Minimum Hourly Remuneration No age discrimination [Second Column]</i>
Cashier	\$3.04
Clerk	\$3.04
Driver L/Goods & Group 2	\$3.04
Driver H/Goods	\$3.52
Fork Lift Operator	\$3.23
Packer	\$2.92
Salesman	\$3.04
Sewing Machinist	\$3.04
Shop Assistant	\$3.04
Storeman	\$3.04
Unskilled Worker	\$2.86
Watchman	\$2.80
Other Worker	\$3.04