

GOVERNMENT OF FIJI GAZETTE SUPPLEMENT

No. 15

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2015

[LEGAL NOTICE NO. 51]

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

Employment Relations (National Minimum Wage) Regulations 2015

IN exercise of the powers conferred upon me by section 264 of the Employment Relations Promulgation 2007 and acting on the advice of the Employment Relations Advisory Board, I hereby make these Regulations—

TO ESTABLISH A NATIONAL MINIMUM WAGE FOR ALL WORKERS
IN ALL WORKPLACES IN THE REPUBLIC OF FIJI

Short title and commencement

1.—(1) These Regulations may be cited as the Employment Relations (National Minimum Wage) Regulations 2015.

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

Interpretation

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

“Court” means the Employment Relations Court;

“equivalent hourly wage rate” means the hourly wage rate calculated from the salary or remuneration of a worker that is an equivalent hourly wage rate;

“Government” means the Government of the Republic of Fiji;

“Minister” means the Minister responsible for Employment, Productivity and Industrial Relations;

“Ministry” means the Ministry of Employment, Productivity and Industrial Relations;

“national minimum wage” means the minimum wage established under regulation 4 which shall be the hourly wage rate or equivalent hourly wage rate below which all hourly wage rates in the Republic of Fiji shall not be allowed;

“Promulgation” means the Employment Relations Promulgation 2007; and

“Tribunal” means the Employment Relations Tribunal.

Application

3. These Regulations apply to all workplaces and all employers operating in the Republic of Fiji who employ workers under a contract of service as defined under the Promulgation including, but not limited to, workers in a ship or aircraft of any kind registered in the Republic of Fiji or owned by the Government, whether or not the ship or aircraft is within the territorial waters, land or airspace of the Republic of Fiji.

Establishment of the national minimum wage

4. The national minimum wage is fixed at FJ\$2.32 per hour.

Enforcement of national minimum wage

5.—(1) Where an employment contract provides for the payment of an hourly wage rate or an equivalent hourly wage rate which is less than the national minimum wage established under these Regulations, the contract shall be deemed null and void to the extent of the inconsistency and the national minimum wage shall have effect.

(2) Any employer or any other person authorised by or acting on behalf of the employer, who fails to comply with any provision of this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 2 years or to both.

(3) Where proceedings are brought under sub-regulation (2) in respect of an offence for the payment of an hourly wage rate or equivalent hourly wage rate less than the national minimum wage, and—

(a) if the employer or any other person authorised by or acting on behalf of the employer charged, disputes the charges, evidence may be given of any like contravention on the part of the employer or such other person in respect of any period during the 6 years immediately preceding the date of the offence; and

(b) on proof of such contravention,

the Tribunal or the Court may order the employer to pay such sum as is found by the Tribunal or the Court to represent the difference between the amount which ought to have been paid during that period to the worker by way of remuneration, if the provisions of these Regulations had been complied with, and the amount actually paid to the worker.

(4) No evidence shall be given under sub-regulation (3)(a) unless notice of intention to give such evidence has been served upon the employer or any other person authorised by or acting on behalf of the employer, with the summons, warrant, information or complaint.

(5) The powers provided under these Regulations for the recovery of wages due from an employer to a worker in respect of the national minimum wage shall be in addition to and not in derogation from any existing right to recover other such wages from the Tribunal.

Notices

6.—(1) An employer shall display a written notice in the workplace for the purpose of informing the workers of any national minimum wage affecting them.

(2) Any employer that fails to comply with sub-regulation (1) commits an offence and shall be liable upon conviction to a fine not exceeding \$20,000 or a term of imprisonment not exceeding 2 years or both.

Fixed penalty notice

7.—(1) A Labour Inspector may, in the prescribed form, institute proceedings for any offence committed under these Regulations by issuing a fixed penalty notice of \$500 to an employer or any other person authorised by or acting on behalf of the employer for non-compliance with any provision under these Regulations.

(2) If proceedings are instituted by means of serving a fixed penalty notice under sub-regulation (1) and the fixed penalty notice has been accepted by the payment of the fixed penalty, in accordance with any condition contained in the fixed penalty notice, that acceptance shall be deemed as a conviction for the offence in respect of which the fixed penalty notice was issued.

(3) In any proceedings, a certificate signed by the clerk of the court or an authorised officer that the fixed penalty was or was not paid shall, unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

(4) An employer or person authorised by or acting on behalf of an employer who contravenes these Regulations and has accepted the fixed penalty notice under sub-regulation (2) shall pay to the worker in respect of which the offence was committed, such sum representing the difference between the amount which ought to have been paid during that period to the worker by way of remuneration and the amount actually paid to the worker.

Review of national minimum wage

8.—(1) The national minimum wage established under these Regulations may be reviewed and determined from time to time by the Minister.

(2) The review under sub-regulation (1) shall be undertaken in consultation with the Employment Relations Advisory Board, and other relevant stakeholders.

Revocation

9. The Employment Relations (National Minimum Wage) Regulations 2014 is hereby revoked.

Effect of national minimum wage

10.—(1) The national minimum wage established under these Regulations shall not affect any other written law regulating wages or any review of such laws.

(2) Workers covered under the provisions of these Regulations are also accorded all the minimum labour standards provided under the Promulgation.

Made this 23rd day of June 2015.

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