

[LEGAL NOTICE NO. 42]

WAGES COUNCIL

[Part 6 Divisions 2 of Employment Relations Promulgation 2007]

NOTICE

THE Minister for Labour, Industrial Relations and Employment having made the Wages Regulation (Garment Industry) Order 2011 and pursuant to the provisions of subsection (5) of Section 54 of the Employment Relations Promulgation 2007 hereby publishes the said Order.

Dated this 21st day of April 2011.

S. LESI
Secretary
Garment Industry Wages Council

It is provided by Subsection (1) of section 56 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 subsection (2) of section 56 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 (GARMENT INDUSTRY) ORDER 2011

IN exercise of the powers conferred upon me by subsection (5) of Section 54 of the Employment Relations Promulgation 2007, having received wages regulation proposals from the Garment Industry Wages Council, and the provisions of the said section having been otherwise complied which have made the following Order.

Citation and Commencement

1. This Order may be cited as the Wages Regulation (Garment Industry) 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 an undertaking engaged in the Garment manufacturing process in respect of which a licence under the Business Licensing Act, 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:—

“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 24 hour period immediately following the payment;

“learner” means a worker who has worked in the industry for less than 5 months;

“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;

“Promulgation” means the Employment Relations Promulgation of 2007;

“week” means a period of 7 consecutive days.

Rates of remuneration

4.—(1) The minimum hourly rates of remuneration to be paid to a worker, whether hourly, daily, weekly or for any period—

(a) in the case of a learner - \$1.65 per hour.

(b) in the case of any other worker - \$1.96 per hour.

(2) The minimum hourly rate of remuneration to be paid to casual workers of the classes specified in this paragraph is 25% more than the minimum rates specified.

Working Week

5. The normal working week shall consist of no more than forty-five hours (45) hours spread over 5 days in any one week.

Public Holiday

6. Every worker shall be paid in respect of each public holiday for the number of hours work (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 worker 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

7.—(1) Overtime work is 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.

(2) Overtime pay payable under sub-paragraph (1) for a public holiday is in addition to that payable under paragraph 6.

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

- (a) on any working day or a Saturday – one and half times the workers' normal hourly rate of pay for the first four hours and thereafter twice the workers' normal hourly rate of pay;
- (b) on public holidays and Sundays – twice the workers' normal hourly rate of pay.

(4) The minimum overtime payable under this paragraph is one hour for week days and two hours for Saturdays.

(5) A minimum of four hours overtime pay at the rates specified in sub-paragraph (3) is to be paid in respect of any overtime worked on a public holiday or a Sunday.

Annual Holiday

8. No deduction is to be made from workers remuneration in respect of annual holiday taken by a worker under section 58 of the Promulgation.

Sick Leave

9.—(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 or 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 or 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

10. Every worker who is required to work overtime in excess of three hours on any normal working day is entitled to a hot substantial decent meal or meal allowance of \$5.50 instead of a meal.

Bereavement Leave

11. A worker who has completed more than 3 months continuous service with he 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. 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’s) 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

13. In the case of 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.—(i) 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. Employers to complete Labour Management and Cooperation Committee record forms as a general obligation to ensure the attaining of quality control.

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

Revocation

16. The Wages Regulation (Garment Industry) Order 2009 is revoked with effect from the 1st May, 2011.

Dated at Suva this 25th day of April 2011.

F. BOLE
Minister for Labour,
Industrial Relations and Employment