

[LEGAL NOTICE NO. 107]

ACCIDENT COMPENSATION ACT 2017

Accident Compensation (Amendment) Regulations 2018

IN exercise of the powers conferred on me by section 35 of the Accident Compensation Act 2017 and following consultation with the Accident Compensation Commission Fiji, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Accident Compensation (Amendment) Regulations 2018.

(2) These Regulations come into force on 1 January 2019.

(3) In these Regulations, the Accident Compensation Regulations 2017 is referred to as the “Principal Regulations”.

Regulation 2 amended

2. The Principal Regulations are amended by deleting regulation 2 and substituting the following—

“Interpretation

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

“Act” means the Accident Compensation Act 2017;

“*de facto* partner” means a person in a *de facto* relationship;

“*de facto* relationship” has the meaning given in section 42 of the Family Law Act 2003;

“employer” includes the Government and any body of persons corporate or unincorporate and the personal representative of a deceased employer, and, where the services of a worker are temporarily lent or let on hire to another person by the person with whom the worker has entered into a contract of service or apprenticeship, the latter is, for the purposes of the Act and these Regulations, deemed to continue to be the employer of the worker while he or she is working for that other person; and in relation to a person employed for the purposes of any game or recreation and engaged or paid through a club, the manager is, or members of the managing committee of the club are, for the purposes of the Act and these Regulations, deemed to be the employer;

“external compensation” means compensation for personal injury or death payable to an officer or soldier of the Republic of Fiji Military Forces, or his or her estate or dependants, by the United Nations or other international body which deployed the officer or soldier on peacekeeping duties;

“Government” means the Government of the Republic of Fiji and for the purpose of avoiding doubt, the Minister may, by notice in the Gazette, include or exclude any person from this definition;

“member of the family”, in relation to a person, means the wife, husband, *de facto* partner, father, mother, stepfather, stepmother, grandfather, grandmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the person;

“outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired, or adapted for sale in his or her own home or on other premises not under the control or management of the person who gave out the materials or articles;

“tributer” means a person who is granted permission to win minerals, receiving a proportion of the minerals won by him or her or the value thereof; and

“worker” means any person who has, either before or after the commencement of these Regulations, entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, or otherwise, whether the contract is expressed or implied, is oral or in writing, whether the remuneration is calculated by time or by work done, and whether by the day, week, month or any longer period, and includes personnel and officers in the Fiji Police Force, the Fiji Corrections Service, the Republic of Fiji Military Forces personnel and officers engaged in military duties in foreign countries, but does not include the following persons—

- (i) a person employed in a casual nature and who is employed otherwise than for the purposes of the employer’s trade or business not being a person employed for the purposes of any game or recreation and engaged or paid through a club;
- (ii) an outworker;
- (iii) a tributer;
- (iv) a member of the employer’s family dwelling in the employer’s house or the curtilage thereof; or

- (v) a member of the crew of a fishing ship or vessel who is remunerated wholly or mainly by shares in the profits or the gross earnings of the working of such ship or vessel, except in such cases and subject to such modifications as the Minister may by order provide.”.

Regulation 4 amended

3. Regulation 4 of the Principal Regulations is amended by—

- (a) in subregulation (1)—
 - (i) after paragraph (b), inserting the following new paragraph—
 - “(ba) an application claiming compensation for a person who suffered personal injury or death as a result of a deliberate self-injury;”;
 - (ii) in paragraph (d), deleting “and”;
 - (iii) in paragraph (e), deleting “.” and substituting “; and”; and
 - (iv) after paragraph (e), inserting the following new paragraph—
 - “(f) an application claiming compensation in relation to any personal injury or death as a result of an accident arising out of and in the course of employment where the injured or deceased person is not a worker.”; and
- (c) after subregulation (1), inserting the following new subregulation—
 - “*Compensation in relation to the Republic of Fiji Military Forces*
 - (1A) If an officer or soldier of the Republic of Fiji Military Forces suffers a personal injury or death while engaged in, or as a result of being engaged in, military peacekeeping operations overseas and external compensation is payable to the officer or soldier, or to his or her estate or dependants, for the personal injury or death, then—
 - (a) if the external compensation paid equals or exceeds the compensation payable under the Act for the personal injury or death, no compensation is to be paid under the Act to the officer or soldier, or to his or her estate or dependants as the case may be;
 - (b) if the external compensation paid is less than the compensation payable under the Act for the personal injury or death, the difference in compensation is to be paid to the officer or soldier, or to his or her estate or dependants as the case may be, so as to bring the total amount of compensation paid up to the amount payable under the Act;

- (c) if compensation for death or personal injury has been paid under the Act to an officer or soldier, or to his or her estate or dependants, but the amount of external compensation payable for the death or injury exceeds the amount so paid, the officer or soldier is, or his or her estate or dependants are, entitled to only receive the difference in compensation and the remainder of the external compensation which equals the compensation for death or personal injury paid under the Act must be remitted to the Commission by the officer or soldier, or his or her estate or dependants.”.

Made this 23rd day of December 2018.

A. SAYED-KHAIYUM
Attorney-General and Minister responsible for justice
