

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

Wages (Hotel and Catering 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 (Hotel and Catering Trades) Regulations 2015.

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

Application

2. These Regulations 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 the business of which includes the supply of food or drink for sale for immediate consumption or consumption on the premises or the provision of living accommodation for five or more adult guests or lodgers, and their employers.

Interpretation

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

“barman” means a worker who is employed wholly or mainly in mixing, dispensing and serving alcoholic and non-alcoholic beverages at bars or on duties ancillary to those tasks;

“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, that is, sorting incoming mail, preparing outgoing correspondence, filing correspondence or other documents, receiving and documenting guests, receiving and recording messages by telephone, making entries in books showing receipts to or payments from petty cash, shorthand writing, typing correspondence, book-keeping, operating machine equipment for accounting, calculating, addressing, franking, copying and reproducing documents and drawings, preparing stencils, duplicating or composing office correspondence;

- “cook” means a worker who is employed wholly or mainly in preparing and cooking the dishes normally listed on the menu of the institution where he or she works, including the mixture of two or more ingredients or the preparation and cooking of meat, poultry, game or fish and on duties ancillary to any of those tasks;
- “day” means a continuous period of 24 hours beginning at midnight on any day and ending at midnight the following day;
- “general worker” means a worker who is employed wholly or mainly in performing tasks, which requires no particular skill, not being a worker of any other kind specified in these Regulations;
- “house worker” means a worker who is employed wholly or mainly in all or any of the tasks that is to say cleaning and servicing guest rooms, cleaning bathrooms, corridors, staircases, lounges, dining rooms and restaurants, or on duties ancillary to those tasks;
- “kitchen-hand” means a worker who is employed wholly or mainly in assisting a cook;
- “laundry-hand” means a worker who is employed wholly or mainly in washing, drying or ironing clothing, bedding or furnishing or on duties ancillary to those tasks;
- “licensed undertaking” means an undertaking in respect of the whole or part of which a licence under the Liquor Act 2006 is in force;
- “LMCCC” means the Labour Management Consultation Cooperation Committee;
- “night attendant” means a worker who is employed wholly or mainly on night work performing various tasks including carrying luggage, cleaning shoes, attending to the requirements of guests or clients, attending telephones or any other duties ancillary to any of those tasks;
- “outer island business” means a business of hotel and catering trades operated outside the mainland of Viti Levu, Vanua Levu, Ovalau and Taveuni and not accessible by road;
- “outdoor worker” means a worker who is employed wholly or mainly on outdoor work in connection with the employer’s trade or business, including the cultivation of flowers, shrubs, trees or other plants, the preparation of soil for planting or transplanting, pruning plants, weeding, mowing lawns, taking care of plants, removing or disposing of refuse or duties ancillary to any of those tasks;
- “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;
- “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 in the *Gazette* under section 66 of the Promulgation;

“part-time worker” means a worker who is employed on a weekly contract of service and, at his or her own request, works less than 48 hours per week;

“student trainee” means—

- (a) an employee who is undertaking full-time course of instruction at the School of Hotel and Catering Services of the Fiji National University or any other recognised institution; or
- (b) any employee who—
 - (i) is under the age of 18 years; or
 - (ii) having attained the age of 18 years, has not previously worked in any undertaking to which the Hotel and Catering Trades Wages Regulation relates, and is undertaking a training programme that is approved by the Training and Productivity Authority of Fiji or the Fiji National University being a programme—
 - A. under which the training provided is supervised by a registered Training Officer, and shall not be rostered as a regular employee and provided free meals and travel allowance during the period of attachment;
 - B. the duration of which, in the case of an employee who has attained the age of 18 years, is attached for only 3 months;
 - (iii) will be paid a Training Allowance of \$60 a week irrespective of whether under 18 years or over 18 years;

“waiter” means a worker who is employed wholly and mainly in the serving of food or drinks at tables or on duties ancillary to those tasks;

“watchman” means a worker who is employed wholly or mainly in the watching or guarding of premises or property and any items therein;

“week” means the period of 7 consecutive days; and

“worker” means a worker to whom these Regulations apply.

Rates of remuneration

4.—(1) The minimum rates of remuneration to be paid to workers other than casual workers are specified in the table set out in the Schedule.

(2) The minimum rates of remuneration to be paid to casual workers shall be twenty-five per cent more than those specified in the Schedule.

Rest day

5.—(1) In each week, a worker shall be entitled to one rest day, which shall be determined by the employer and notified to the worker not less than a week in advance of that day except for the workers employed by the employers in outer islands under the arrangements made by sub-regulation (2), in which case the notice shall not be less than a fortnight or a month in advance of such rest days as the case may be.

(2) All workers engaged by the employers operating an outer island business shall be permitted to grant “rest days” to such workers as follows—

- (a) after having worked for 12 consecutive days, the employer shall grant 3 consecutive days off; or
- (b) after having worked for 24 consecutive days, the employer shall grant 5 consecutive days off.

Working week

6. The normal working week shall consist of 48 hours spread over six days in any one week.

Split shifts

7.—(1) Where a worker is required to work his or her normal hours of work in separate shifts—

- (a) the normal hours of work in a day shall be worked in not more than two shifts;
- (b) those shifts shall be completed within 13 hours, computed from starting to finishing time, including meal breaks; and
- (c) if the worker is actually required to work fewer hours than are specified in his or her contract, the worker shall be paid for the minimum number of hours so specified.

(2) A worker who is required to work his or her normal hours of work in separate shifts shall be entitled to payment of shift allowance of \$2.30 cents per day in addition to his or her normal rate of remuneration.

(3) For the purpose of this regulation, a meal break not exceeding 1 hour in duration shall not constitute a break between shifts.

Public holiday

8. 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) he or she worked for the employer throughout the last working day preceding the public holiday; and
- (b) he or she presents himself or herself for employment on the first working day after such public holiday,

and provided further that sub-regulations (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.

Overtime

9. Overtime remuneration shall be paid to every worker in the classes mentioned in the Schedule—

- (a) for the first 4 hours worked in excess of 8 hours on each day other than the rostered day off applicable to the worker concerned, at one and a half times the worker's normal rate of remuneration and for all overtime worked thereafter on such day, at twice the worker's normal rate of remuneration;
- (b) for all the time worked on the worker's rostered day off, at twice the worker's normal rate of remuneration.

Annual holiday

10. All workers shall be given annual holidays in accordance with the provision of section 58 of the Promulgation.

Night shift allowance

11. Night shift allowance, at the rate of 20 cents per hour, shall be payable in addition to the wages otherwise payable to a worker in relation to time worked by the worker, not being overtime commencing between 10pm on one day and 6am on the day immediately following.

Sick leave

12.—(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 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

13. Every worker who is required to work overtime in excess of 2 hours on any normal working day or shift shall be entitled to a meal allowance of \$7.00 or a decent hot meal.

Bereavement leave

14. 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

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 work place 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

16. In the case of a grievance in the work place, 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

17.—(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 Cooperation Committee to assist them to review and develop work practices in order to promote good faith employment relations and increase productivity.

(2) All Wages Regulations shall have a provision requiring the employers to complete LMCCC record forms as a general obligation to ensure the attainment of quality control.

Sexual harassment

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

Notices

19.—(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

20. The Wages Regulation (Hotel and Catering 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>Licensed Undertaking (Second Column)</i>	<i>Other Undertaking (Third Column)</i>
Barman	\$3.23	–
Clerk	\$3.16	\$2.86
Cook	\$3.28	\$2.98
General Worker	\$3.04	\$2.80
House Worker	\$3.04	\$2.80
Kitchen-hand	\$3.04	\$2.80
Laundry-hand	\$3.04	\$2.80
Night Attendant	\$3.04	\$2.80
Outdoor Worker	\$3.04	\$2.80
Student Trainee	\$60/wk allowance	\$60/wk allowance
Waiter	\$3.04	\$2.80
Watchman	\$3.04	\$2.80