

[LEGAL NOTICE NO. 13]

WAGES COUNCIL

**[Part 6 Division 2 of Employment Relations
Promulgation]**

NOTICE

THE Minister for Labour, Industrial Relations, Employment, Local Government, Urban Development, Housing and Environment having made the Wages Regulation (Road Transport) Order 2008, and pursuant to the provisions of subsection (5) of Section 54 of the Employment Relations Promulgation 2007, hereby publishes the said Order

Dated this 15th day of January 2009.

J. PULU
Acting Secretary
Road Transport 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. 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 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.

WAGES REGULATION [ROAD TRANSPORT] ORDER 2008

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 Road Transport Wages Council, and the provisions of the said section having been otherwise complied with, have made the following Order:

Citation

1. This Order may be cited as the Wages Regulation (Road Transport) Order 2008, and shall come into force on the 1st day of February 2009.

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—

- (i) in any undertaking; or
- (ii) if the undertaking consists of several parts, in any part of the undertaking, where the business of such undertaking or such part is, wholly or mainly, the carriage, for hire or reward, of passengers and goods, or either of them, by any motor vehicle required to be licensed as a public service vehicle or a goods vehicle under the Traffic Act; and to the employers of such workers.

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 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 mail, preparation of out-going correspondence, filing correspondence or other documents, receiving or interviewing callers, arranging appointments, the 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 correspondence;

“conductor” means a person employed by the holder of a public service vehicle license to issue tickets and collect moneys on a omnibus;

“fork-lift driver” means a worker who is employed wholly or mainly in driving a forklift vehicle not exceeding 12 tons (13,440kg);

“garage serviceman” means a worker who is employed wholly or mainly in performing any task in connection with motor vehicles in one or more of the following classes of work: the changing of oil in an engine or transmission system, lubricating joints, tightening loose part, making minor adjustments,

mending tyres, checking and servicing batteries, water or tyre pressure, fitting and replacing parts and components such as gear boxes, drive shafts, suspension springs, etc and assisting the mechanics, or any other tasks related to the servicing of vehicles other than those carried out by a mechanic repairman;

“general worker” means a worker who performs tasks which require no particular skill or who is not otherwise defined in this Order;

“heavy articulated driver” means a worker who is employed wholly or mainly in driving an articulated vehicle not exceeding 20 tons (22,400kg) load capacity;

“heavy fork-lift driver” means a worker who is employed wholly or mainly in driving a fork-lift vehicle exceeding 12 tons (13,440kg);

“heavy goods vehicle driver” means a worker who is employed wholly or mainly in driving a mechanically propelled vehicle not exceeding 12 tons (13,440kg) load capacity;

“heavy mobile crane driver” means a worker who is employed wholly or mainly in driving a mobile crane with a lifting capacity exceeding 20 tons (22,400kg);

“heavy PSV driver” means a worker who is employed wholly or mainly in collecting of fares and driving passenger vehicle exceeding 60cwt (3,360kg) load capacity;

“learner” means a worker who has worked in the mechanical section of the industry for less than 3 years;

“light goods driver” means a worker who is employed wholly or mainly in driving a mechanically propelled vehicle not exceeding 60cwt (3,360kg) or less unladen in weight;

“light PSV driver” means a worker who is employed wholly or mainly in driving a passenger vehicle of 60cwt (3,360kg) load capacity;

“mechanic repairman” means a worker other than a garage serviceman who is employed wholly or mainly in the maintenance and repair of vehicles or performing one or more of the following classes of work: examining defective vehicles to ascertain the nature or location of defects, dismantling and or replacing damaged parts, grinding valves, relining brakes, rebushing steering mechanism, testing vehicles for road worthiness;

“mobile crane driver” means a worker who is employed wholly or mainly in driving a mobile crane with a lifting capacity not exceeding 20 tons (22,400kg);

“night” means the interval between six o’clock in the evening of any day and six o’clock in the morning of the following day;

“provisional period of work” means a worker employed by an employer shall be in a provisional period of service for a period of one month before his or her appointment is confirmed;

“public holiday” means any of the days specified in the section 64 of the Employment Relations Promulgation or any day appointed by notification under Section 66 of that Promulgation.

“rostered day off” means the day of each week on which a worker is entitled under the terms of the contract to be absent from duty;

“ticket checker” means a worker who is employed wholly or mainly in checking tickets issued to passengers of public service vehicles;

“tourist transport operator” means any person or company wholly or mainly engaged in the transportation of tourists;

“vehicle” has the same meaning given to it by the Land Transport Act 1998;

“very heavy articulated driver” means a worker who is employed wholly or mainly in driving an articulated vehicle exceeding 20 tons (22,400kg) load capacity;

“very heavy goods vehicle driver” means a worker who is employed wholly or mainly in driving a mechanically propelled vehicle exceeding 12 tons (13,440kg);

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

“week” means a period of 7 consecutive days.

Rates of Remuneration

4—(1) The minimum hourly rate of remuneration to be paid to any class of worker specified in the First column of the First Schedule hereto, whether such workers be employed hourly, daily, weekly or for any period, shall be those contained in the second column of the schedule.

(2) Drivers must be paid the rate applicable to the vehicle they are employed to drive even if they are qualified to drive other categories of vehicle.

(3) The minimum rate of pay to be paid to a casual worker of a class specified in the first column of the Schedule is 25% more than the minimum rates specified in the second or third column in the Schedule.

(4) A driver employed by a tourist transport operator must be paid 25% or more than the rate shown in the Schedule.

Hours of Work

5. The normal hours of work are 8 hours a day for 6 days a week and must be worked during any 6 days of a week beginning from midnight on Sunday to midnight of the succeeding Sunday.

Split Shift for Public Service Vehicles

6—(1) Public Bus Service drivers who have at least 2 hours break between successive shifts for the day may be required to work normal hours of work in split shifts, as follows —

- (a) the normal hours of work must be worked in not more than 2 shifts;
- (b) such shifts must (notwithstanding paragraph 5) be worked between the hours of 5.00 am to 11.30pm;
- (c) if a lesser number of hours than 8 is actually worked during the day, the worker must be paid for minimum of 8 hours of work and, for the purpose of paragraph 9, is regarded as having performed 8 hours of work.
- (d) the break between the shifts shall be a minimum of 2 hours.
- (e) this paragraph shall not apply to any other worker covered by this order.

(2) For the purpose of this paragraph a meal break not exceeding one hour does not constitute a break between shifts.

Public Holidays

7 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.

Rostered day off

8. In each week a worker is entitled to one rest day (herein referred to as “the rostered-day- off”) to be determined by the employer and notified to the worker at least 24 hours beforehand. If the rostered- day -off falls on a paid public holiday the worker must be granted an additional day off as a “rostered- day-off”.

Overtime

9. Overtime pay must be paid to every worker as follows—

- (a) for the first 4 hours worked in excess of 8 hours of each day other than a rostered - day-off or paid public holiday – at one and a half times the worker’s normal hourly rate of pay and for all overtime worked thereafter on the day at twice the worker’s normal hourly rate of pay;
- (b) for all time worked on the worker’s rostered- day-off, at twice the normal workers hourly rate of pay;
- (c) for all the time worked on a paid public holiday – at twice the normal hourly rate of pay.

Subsistence Allowance

10. Every worker must, in respect of each night during the whole of which he or she is required by the employer to be absent from the place where he or she was engaged for employment, be paid a subsistence allowance of not less than—

- (a) \$10.00 if quarters are provided by the employer; or
- (b) \$20.00 if the employer does not provide quarters.

Meal Allowance

11. Every worker who is required to work overtime in excess of two hours on any normal working day is entitled to a meal allowance of five (\$5.00) dollars and any worker who is required to work on a rostered day off in excess of six (6) hours on that day is entitled to a meal allowance of five (\$5.00) dollars.

Annual Holiday

12. Every worker must be given annual holidays in accordance with the provisions of Part 7 Section 58 of the Employment Relations Promulgation 2007, or any other regulation revoking or replacing the same. No deduction is to be made from a worker's pay in respect of any annual holiday taken.

Sick Leave

13.—(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.

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. 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

16. 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 (LMCC)

17. All employers with more than 20 workers are required by Sections 9(1) (d) and 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; and requiring employers to complete LMCC forms as a general obligation to ensure the attaining of quality control.

Sexual Harassment

18. All employers are required to develop and maintain a policy to prevent Sexual Harassment in the Workplace.

Uniforms

19. Employers are encouraged to provide uniforms to its employees to improve the image of the industry.

Revocation

20. The Wages Regulation (Road Transport) Order 2007 is revoked with effect from 1st day of February 2009.

Dated at Suva this 15th day of January 2009.

F. BOLE

Minister for Labour, Industrial Relations, Employment,
Local Government, Urban Development Housing and Environment

SCHEDULE
(Paragraph 4)

<i>Classes of workers</i>	<i>Remuneration</i> \$
Clerk	2.16
Light Vehicle Goods Driver	2.26
Heavy Vehicle Goods Driver	2.67
Very Heavy Vehicle Goods Driver	2.67
Heavy Articulated Vehicle Driver	2.67
Mobile Crane Driver	2.67
Heavy Mobile Crane Driver	2.82
Very Heavy Articulated Driver	2.82
Light PSV Driver	2.26
Heavy PSV Driver	2.67
Fork-Lift Operator	2.50
Heavy Fork-lift Operator	2.67
Garage Serviceman	2.18
General Worker	2.12
Mechanic repairman	2.76
Ticket Checker	2.04
Conductor	2.04
Watchman	2.04
Learner	1.30 (yr. 1) 1.47 (yr. 2) 1.78 (yr. 3)