

ACT NO. 8 OF 2015



I assent.

E. NAILATIKAU
President

[14 July 2015]

AN ACT

TO AMEND THE WORKMEN'S COMPENSATION ACT (CAP. 94)

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Workmen's Compensation (Amendment) Act 2015.

(2) This Act shall come into force on the date of its publication in the *Gazette*.

(3) In this Act, the Workmen's Compensation Act (Cap. 94) shall be referred to as the "Principal Act".

Section 3 amended

2. Section 3 of the Principal Act is amended—

(a) in the definition of "member of the family" by inserting "*de facto* partner," after "husband,"; and

(b) by inserting the following new definitions—

"*de facto* partner" means a party in a *de facto* relationship;

"*de facto* relationship" has the same meaning as under section 42 of the Family Law Act 2003;

“labour inspector” means a labour inspector appointed or authorised by the Permanent Secretary for the purposes of this Act to institute and appear on behalf of any workman, and where the workman is deceased on behalf of the dependants of the deceased workman, in any civil proceedings by the workman or his or her dependants in respect of any matter or course of action arising out of or in the course of employment of such workman under the provisions of this Act;

“Minister” means the Minister responsible for the administration of this Act;”

Section 6 amended

3. Section 6 of the Principal Act is amended in paragraph (a) by deleting “twenty four thousand dollars” and substituting “fifty thousand dollars”.

Section 7 amended

4. Section 7 of the Principal Act is amended—

(a) in subsection (1) by deleting “thirty two thousand dollars” and substituting “sixty seven thousand dollars”; and

(b) in subsection (2) by deleting “one-quarter” and substituting “half”.

Section 8 amended

5. Section 8 of the Principal Act is amended in subsection (1)(b), by deleting “twenty four thousand dollars” and substituting “fifty thousand dollars”.

Section 14 amended

6. Section 14 of the Principal Act is amended by deleting subsection (3) and substituting the following—

“(3) If an employer fails to comply with the provisions of subsections (1) and (2) without reasonable cause, a labour inspector shall issue the employer with a demand notice.

(3A) If the employer fails to comply with the requirements of the demand notice issued under subsection (3), the employer commits an offence and shall be liable to—

(a) in the case of an employer whose consolidated revenue in a financial year is less than \$500,000, a fixed penalty of \$500;

(b) in the case of an employer whose consolidated revenue in a financial year is more than \$500,000 but less than \$2 million, a fixed penalty of \$1,500;

(c) in the case of an employer whose consolidated revenue in a financial year is more than \$2 million but less than \$5 million, a fixed penalty of \$3,000;

(d) in the case of an employer whose consolidated revenue in a financial year is more than \$5 million but less than \$20 million, a fixed penalty of \$7,000;

or

(e) in the case of an employer whose consolidated revenue in a financial year is more than \$20 million, a fixed penalty of \$10,000.

(3B) A fixed penalty notice specifying the fixed penalty shall be issued to the employer in the form prescribed under Schedule 2.

(3C) If the employer fails to pay the fixed penalty in accordance with the requirements of the fixed penalty notice issued under subsection (3B), the employer shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding \$50,000.

(3D) The Permanent Secretary or labour inspector may direct the employer who has committed an offence under subsection (3A) to furnish a report or documentation on its consolidated revenue for the preceding year, and such employer must comply with such direction.

(3E) If the employer fails to comply with the directive under subsection (3D), the employer commits an offence and shall be liable upon conviction to a fine not exceeding \$50,000."

Schedule amended

7. The Schedule to the Principal Act is amended in the heading by inserting "1" after "Schedule".

New schedule inserted

8. The Principal Act is amended by inserting the following new Schedule after Schedule 1—

"SCHEDULE 2—FIXED PENALTY NOTICE
(Section 14(3B))

WORKMEN'S COMPENSATION FIXED PENALTY NOTICE

PART A

Notice No.: _____

To: _____ of _____

Place of Offence: _____

Date of Offence: _____ Time of Offence: _____

It is alleged that you have been found committing an offence in contravention of section _____ of the Workmen's Compensation Act (Cap. 94).

Statement/Particulars of Offence: _____

- If you do not wish for the matter to be determined in a court hearing, you may complete Part B attached to this notice and forward that form together with the prescribed penalty to the Ministry of Employment, Productivity and Industrial Relations within 21 days.
- The fixed penalty for the alleged offence is \$_____
- You have the right to decline to proceed in the manner described above and to allow the matter to be determined in a court hearing—
 - (i) if you wish to contest whether the offence alleged was actually committed;
 - (ii) if you wish to submit to the court matters in extenuation of the penalty; or
 - (iii) for any other reason, in which event you need not reply or take further action in respect of this notice, and in such case proceedings will be instituted against you in due course.
- As well as paying the fixed penalty for the specified offence, you are required to remedy your non-compliance with the relevant provisions of the Workmen's Compensation Act (Cap. 94) by _____

Signed: _____

Name: _____

Labour Inspector

Date: _____

see back of form for Affidavit of Service*PART B**

Notice No.: _____

I, _____ of _____
 being the person named above hereby enter a plea of guilty to the offence specified.

I, attach a cheque (not negotiable) or cash of \$_____

Signed: _____

Name: _____

Date: _____

(NOTE: Penalty must be paid directly to the Headquarters of the Ministry of Employment, Productivity and Industrial Relations or to the District or Divisional Office of the Ministry of Employment, Productivity and Industrial Relations nearest to you)

AFFIDAVIT OF SERVICE
(To be completed in all cases)

I, _____, the Labour Inspector whose signature appears at the foot of the Workmen's Compensation Fixed Penalty Notice above, make oath and say that on the _____ day of _____ 20____ at _____ I did serve the person specified therein,

OR

affix in a conspicuous position, on the _____
the Workmen's Compensation Fixed Penalty Notice.

Sworn by the above named Labour Inspector on this _____ day of _____ 20_____.

Before: _____
Magistrate or Justice of Peace or
Commissioner for Oaths

Labour Inspector"

Passed by the Parliament of the Republic of Fiji this 9th day of July 2015.