

**EXTRAORDINARY
GOVERNMENT OF FIJI GAZETTE SUPPLEMENT**

No. 44

MONDAY, 24th DECEMBER

2018

[LEGAL NOTICE NO. 105]

WORKMEN'S COMPENSATION (REPEAL) ACT 2018

Commencement Notice

IN exercise of the powers conferred on me by section 1(2) of the Workmen's Compensation (Repeal) Act 2018, I hereby appoint 1 January 2019 as the commencement date of the Workmen's Compensation (Repeal) Act 2018.

Dated this 23rd day of December 2018.

P. K. BALA

Minister for Employment, Productivity and Industrial Relations

[LEGAL NOTICE NO. 106]

ACCIDENT COMPENSATION ACT 2017

Amendment of Schedule

IN exercise of the powers conferred on me by section 36 of the Accident Compensation Act 2017 ('Act'), and with effect from 1 January 2019, I hereby amend the Schedule to the Act after paragraph 1 by inserting the following new paragraphs—

- “2. An accident arising out of and in the course of employment, including any incident that causes a prescribed disease.
3. An accident occurring on any school premises or during a school event or activity.”.

Dated this 23rd day of December 2018.

A. SAYED-KHAIYUM

Attorney-General and Minister responsible for justice

[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”;
 - (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

[LEGAL NOTICE NO. 108]

ACCIDENT COMPENSATION ACT 2017

Accident Compensation (Medical Assessment) (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 (Medical Assessment) (Amendment) Regulations 2018.

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

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

Regulation 3 amended

2. The Principal Regulations are amended by deleting regulation 3 and substituting the following—

“Initial medical assessment

3.—(1) A person who suffers a personal injury or from a prescribed disease as a result of an accident must have an initial medical assessment of the personal injury or the disease conducted by a medical practitioner prior to the making of an application claiming compensation for the personal injury or disablement caused by the disease.

(2) A medical practitioner who conducts an initial medical assessment under subregulation (1) must provide a medical report to the person suffering from the personal injury or disease or his or her representative.

(3) Where a medical practitioner finds that—

- (a) a person is suffering from a disease prescribed under Schedule 1 to the Accident Compensation (Employment Accidents) Regulations 2018;
- (b) the disease is causing the person disablement; and
- (c) the disease is due to the nature of the person’s employment and was contracted within 24 months before the date of disablement,

the medical practitioner must grant the person or his or her representative a certificate attached to the report under subregulation (2) confirming the facts listed in paragraphs (a) to (c).”.

Made this 23rd day of December 2018.

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

[LEGAL NOTICE NO. 109]

ACCIDENT COMPENSATION ACT 2017

Accident Compensation (Employment Accidents) 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—

PART 1—PRELIMINARY

Short title and commencement

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

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

Interpretation

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

“Act” means the Accident Compensation Act 2017;

“authorised officer” means a person authorised by the Permanent Secretary;

“employer” has the meaning given in regulation 2 of the Accident Compensation Regulations 2017;

“late payment fee” means a fee of \$500;

“Ministry” means the Ministry of Employment, Productivity and Industrial Relations;

“Permanent Secretary” means the permanent secretary responsible for employment;

“prescribed disease” means a disease listed in Schedule 1;

“tribunal” means the Employment Relations Tribunal established under section 202 of the Employment Relations Act 2007; and

“worker” has the meaning given in regulation 2 of the Accident Compensation Regulations 2017.

Compensation in relation to persons employed on ships

3.—(1) Any master, seafarer or apprentice to the sea service, including any person employed on board any ship for the purposes of the ship or of any passenger or cargo or mails carried by the ship, who is—

(a) a worker; and

(b) a member of the crew of any ship registered in Fiji or of any other ship of which the owner, or the managing owner if there is more than one owner, or manager resides or has his or her principal place of business in Fiji,

is eligible for compensation under the Act, subject to the following modifications—

(i) where the personal injury or death as a result of an accident arising out of and in the course of employment occurred on board the ship, the employer must report the injury or death to the Permanent Secretary and the Commission as soon as practicable from the date that the employer becomes aware of the injury or death; and

(ii) whenever the testimony of any witness is required in relation to an application, then, upon due proof that the witness cannot be found in Fiji, any deposition which the witness may have previously made on oath in relation to the application before any Justice or Magistrate in any country, may be relied upon by the Commission.

(2) In this regulation, unless the context otherwise requires—

“manager” in relation to a ship means the ship’s husband or other person to whom the management of the ship is entrusted by or on behalf of the owner;

“master” has the meaning given in section 2 of the Maritime Transport Act 2013;

“seafarer” has the meaning given in section 2 of the Maritime Transport Act 2013; and

“ship” has the meaning given in section 2 of the Maritime Transport Act 2013.

PART 2—EMPLOYER DUTIES

Division 1—Duty to report

Employer’s duty to report injury

4.—(1) Subject to regulation 3(1), if a worker suffers any personal injury as a result of an accident arising out of and in the course of employment, the worker’s employer must report the accident and injury to the Permanent Secretary and the Commission within 14 days from the date that the employer becomes aware of the accident and injury.

(2) An employer's report under subregulation (1) must be hand delivered or sent by post or electronic mail to the Permanent Secretary and the Commission, or in such other manner as specified by the Permanent Secretary or the Commission.

Employer's duty to report death

5.—(1) Subject to regulation 3(1), if a worker dies as a result of an accident arising out of and in the course of employment, the worker's employer must report the death of the worker to the Permanent Secretary and the Commission within 7 days from the date that the employer becomes aware of the accident and death.

(2) An employer's report under subregulation (1) must—

- (a) be hand delivered or sent by post or electronic mail to the Permanent Secretary and the Commission, or in such other manner as specified by the Permanent Secretary or the Commission; and
- (b) state the circumstances of the death of the worker, if the circumstances are known to the employer.

Division 2—Duty to pay

Duty to pay

6. If a worker suffers any personal injury as a result of an accident arising out of and in the course of employment, the worker's employer must pay the worker a weekly payment of two-thirds of the weekly earnings which the worker was earning at the time of the accident, provided that—

- (a) the aggregate of the weekly payments must not exceed the lump sum compensation which would be payable in the case of permanent partial or permanent total incapacity; and
- (b) the maximum duration of weekly payments under this regulation must not exceed 260 weeks.

Proceedings to dispute duty to pay

7.—(1) An employer may elect to dispute the duty to pay the weekly payment under regulation 6 by making an application to the Permanent Secretary.

(2) An application to the Permanent Secretary under subregulation (1) must—

- (a) only be made on the grounds that the accident did not arise out of and in the course of employment; and
- (b) be hand delivered or sent by post or electronic mail to the Permanent Secretary and the Commission, or in such other manner as specified by the Permanent Secretary or the Commission.

Consideration of application to dispute duty to pay

8.—(1) The Permanent Secretary must make a decision to refuse or accept an application made under regulation 7 within 7 days of receiving the application.

(2) The Permanent Secretary must refuse an application made under regulation 7 if the application is frivolous or vexatious or if the application is made on any grounds other than as provided in regulation 7(2).

(3) If the Permanent Secretary accepts an application under regulation 7, the Permanent Secretary must refer the matter to the tribunal for adjudication in accordance with section 211(1)(j) of the Employment Relations Act 2007.

(4) If the Permanent Secretary fails to make a decision on an application within 7 days of receiving the application, the application is deemed to be referred to the tribunal for adjudication in accordance with section 211(1)(j) of the Employment Relations Act 2007.

Commission to await judgment of tribunal

9.—(1) If there is a referral to the tribunal under regulation 8, the judgment of the tribunal shall be relevant information for the purposes of making a decision under sections 21 and 22 of the Act.

(2) Pursuant to subregulation (1), the Commission must await the final determination, including the determination of any appeal in any appellate court, of the court or the tribunal before making a decision to approve or refuse an application for compensation.

(3) Where the court or tribunal issues or delivers a judgment to the effect that there is no duty of the employer to pay the weekly payment on the grounds that the accident did not arise out of and in the course of employment, the Commission must refuse the application for compensation by the worker.

Division 3—Offences under this Part

Permanent Secretary or authorised officer to issue demand notice

10.—(1) If an employer fails to comply with regulations 4 and 5 without reasonable cause, the Permanent Secretary or an authorised officer must issue the employer with a demand notice to obtain documents or information in the form prescribed in Schedule 2.

(2) If an employer fails to comply with the requirements of a demand notice issued under subregulation (1), the employer commits an offence and is liable upon conviction to a fine not exceeding—

- (i) in the case of an individual, \$10,000; and
- (ii) in the case of a body corporate, \$100,000.

Failure to pay and dispute

11. If an employer fails to comply with regulation 6 or to dispute the duty to pay in accordance with regulation 7, the employer commits an offence and is liable upon conviction to a fine not exceeding—

- (i) in the case of an individual, \$10,000; and
- (ii) in the case of a body corporate, \$100,000.

PART 3—OCCUPATIONAL DISEASES

Compensation in respect of diseases

12.—(1) If a worker suffers from a prescribed disease causing disablement or dies as a result of a prescribed disease, the worker or his or her representative is entitled to compensation under the Act, provided that—

- (a) such disease was due to the nature of the worker's employment; and

- (b) was contracted within the 24 months previous to the date of such disablement or death.

(2) A person seeking compensation under this regulation must furnish to the Commission—

- (a) the medical report and attached certificate referred to in regulation 3 of the Accident Compensation (Medical Assessment) Regulations 2017; and
- (b) if requested by the Commission, such information as he or she may possess as to the name and address of all other employers who, during the 24 months previous to the date of such disablement or death, employed the worker in the occupation to the nature of which the disease is due.

Date from which time is to run

13. In the application of the Act and these Regulations to disablement or death as a result of a prescribed disease, references to the date of the occurrence of the accident is to be construed as meaning—

- (a) in the case of a prescribed disease causing disablement, the date specified on the certificate referred to in regulation 3(3) of the Accident Compensation (Medical Assessment) Regulations 2017; and
- (b) in the case of death from a prescribed disease, the date of the worker's death.

PART 4—FIXED PENALTY NOTICE

Issuance of Fixed Penalty Notice

14.—(1) The Permanent Secretary or an authorised officer may issue a Fixed Penalty Notice to an employer alleged to have committed an offence under Part 3 by serving the Fixed Penalty Notice—

- (a) through registered mail sent to the postal address of the employer last recorded by the Ministry;
- (b) at the registered office of the employer; or
- (c) through any electronic means as approved by the Permanent Secretary, including by electronic mail to a valid electronic mailing address submitted by the employer to the Ministry and verified by the Ministry.

(2) In these Regulations, service of the Fixed Penalty Notice is deemed to have been effected if the Fixed Penalty Notice is—

- (a) in the form prescribed in Schedule 3; and
- (b) served in accordance with subregulation (1).

Fixed penalty

15. An employer to whom a Fixed Penalty Notice is issued is liable to a fixed penalty of—

- (a) in the case of an individual, \$1,000; and

(b) in the case of a body corporate, \$10,000,

and must, within 30 days from the date the Fixed Penalty Notice is issued, undertake one of the following actions—

- (i) pay the fixed penalty in a single payment or by instalments; or
- (ii) elect to dispute the Fixed Penalty Notice in a court.

Failure to pay fixed penalty

16.—(1) If an employer to whom a Fixed Penalty Notice is issued does not undertake any of the actions in regulation 15 within the prescribed period, the employer is liable to pay the late payment fee in addition to the fixed penalty and where the employer is—

- (a) an individual, the individual shall be issued a departure prohibition order preventing him or her from leaving Fiji; or
- (b) a body corporate, all the officers of the body corporate in Fiji shall be issued a departure prohibition order preventing them from leaving Fiji,

unless the employer undertakes one of the following actions—

- (i) pays the fixed penalty and late payment fee in a single payment or by instalments; or
- (ii) elects to dispute the Fixed Penalty Notice in a court.

(2) If an employer to whom a Fixed Penalty Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Fixed Penalty Notice in a court, the employer must notify the Ministry, on or before the payment of the fixed penalty and late payment fee, if applicable, of the employer's intention to dispute the Fixed Penalty Notice.

(3) If an employer to whom a Fixed Penalty Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Fixed Penalty Notice and the court subsequently makes a final determination in the employer's favour, including the determination of any appeal in any appellate court, the Ministry must refund the fixed penalty and late payment fee, if applicable, to that employer.

(4) If an employer to whom a Fixed Penalty Notice is issued does not undertake any of the actions in regulation 15 within the prescribed period, the Ministry must notify the Director of Immigration immediately after the expiration of the prescribed period.

(5) Upon receipt of the notification from the Ministry under subregulation (4), the Director of Immigration must issue to—

- (a) where the employer is an individual, the individual; or
- (b) where the employer is a body corporate, all the officers of the body corporate in Fiji,

a departure prohibition order stating—

- (i) the reasons for the issue of the departure prohibition order;
- (ii) the fixed penalty and late payment fee that the employer is required to pay; and
- (iii) that the departure prohibition order may be revoked if the employer undertakes any of the actions listed in subregulation (1)(i) and (ii).

(6) If a departure prohibition order is issued to an employer under this regulation, the employer to whom the departure prohibition order is issued may pay in full the fixed penalty and late payment fee that the employer is liable to, to the Ministry or, if the employer intends to leave Fiji, to the Department of Immigration at an international airport in Fiji.

(7) Pursuant to subregulation (6), if an employer pays in full the fixed penalty and late payment fee that the employer is liable to, the departure prohibition order is deemed to have been revoked and the employer must not be prevented from leaving Fiji on the basis of the departure prohibition order issued under this regulation.

Failure to take action within 3 months

17. If an employer to whom a Fixed Penalty Notice is issued does not undertake any of the actions provided in regulation 16(1)(i) and (ii) within 3 months from the date the Fixed Penalty Notice is issued, the Fixed Penalty Notice takes effect as a conviction and the Ministry may seek the maximum penalty for the prescribed offence from a court.

Made this 23rd day of December 2018.

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

SCHEDULE 1
(Regulation 2)

1. Occupational diseases caused by exposure to agents arising from work activities

(a) Diseases caused by chemical agents

- (i) Diseases caused by beryllium or its compounds;
- (ii) Diseases caused by cadmium or its compounds;
- (iii) Diseases caused by phosphorus or its compounds;
- (iv) Diseases caused by chromium or its compounds;
- (v) Diseases caused by manganese or its compounds;
- (vi) Diseases caused by arsenic or its compounds;
- (vii) Diseases caused by mercury or its compounds;
- (viii) Diseases caused by lead or its compounds;
- (ix) Diseases caused by fluorine or its compounds;
- (x) Diseases caused by carbon disulphide;
- (xi) halogen derivatives of aliphatic or aromatic hydrocarbons;
- (xii) Diseases caused by benzene or its homologues;
- (xiii) Diseases caused by nitro-and amino-derivatives of benzene or its homologues;
- (xiv) Diseases caused by nitroglycerine or other nitric acid esters;
- (xv) Diseases caused by alcohols, glycols or ketones;
- (xvi) Diseases caused by asphyxiants like carbon monoxide, hydrogen sulfide, hydrogen cyanide or its derivatives;
- (xvii) Diseases caused by acrylonitrile;
- (xviii) Diseases caused by oxides of nitrogen;
- (xix) Diseases caused by vanadium or its compounds;
- (xx) Diseases caused by antimony or its compounds;
- (xxi) Diseases caused by hexane;
- (xxii) Diseases caused by mineral acids; (xxiii) Diseases caused by pharmaceutical agents;
- (xxiv) Diseases caused by nickel or its compounds;
- (xxv) Diseases caused by thallium or its compounds;
- (xxvi) Diseases caused by osmium or its compounds;

- (xxvii) Diseases caused by selenium or its compounds;
- (xxviii) Diseases caused by copper or its compounds;
- (xxix) Diseases caused by platinum or its compounds;
- (xxx) Diseases caused by tin or its compounds;
- (xxxi) Diseases caused by zinc or its compounds;
- (xxxii) Diseases caused by phosgene;
- (xxxiii) Diseases caused by corneal irritants like benzoquinone;
- (xxxiv) Diseases caused by ammonia;
- (xxxv) Diseases caused by isocyanates;
- (xxxvi) Diseases caused by pesticides;
- (xxxvii) Diseases caused by sulphur oxides;
- (xxxviii) Diseases caused by organic solvents;
- (xxxix) Diseases caused by latex or latex-containing products;
- (xl) Diseases caused by chlorine;
- (xli) Diseases caused by other chemical agents at work that are not mentioned in the preceding items, where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these chemical agents arising from work activities and the disease(s) contracted by the worker;

(b) Diseases caused by physical agents

- (i) Hearing impairment caused by noise;
- (ii) Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves);
- (iii) Diseases caused by compressed or decompressed air;
- (iv) Diseases caused by ionizing radiations;
- (v) Diseases caused by optical (ultraviolet, visible light, infrared) radiations including laser;
- (vi) Diseases caused by exposure to extreme temperatures;
- (vii) Diseases caused by other physical agents at work that are not mentioned in the preceding items, where a direct link is established scientifically, or determined by methods appropriate to national conditions between the exposure to these physical agents arising activities and the disease(s) contracted by the worker;

(c) Biological agents and infectious or parasitic diseases

- (i) Brucellosis;

- (ii) Hepatitis viruses;
- (iii) Human immunodeficiency virus (HIV);
- (iv) Tetanus;
- (v) Tuberculosis;
- (vi) Toxic or inflammatory syndromes associated with bacterial or fungal contaminants;
- (vii) Anthrax;
- (viii) Leptospirosis;
- (ix) Diseases caused by other biological agents at work that are not mentioned in the preceding items, where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these biological agents arising from work activities and the disease(s) contracted by the worker.

2. Occupational diseases by target organ systems

(a) Respiratory diseases

- (i) Pneumoconioses caused by fibrogenic mineral dust (silicosis, anthracosilicosis, asbestosis);
- (ii) Silicotuberculosis;
- (iii) Pneumoconioses caused by non-fibrogenic mineral dust;
- (iv) Siderosis;
- (v) Bronchopulmonary diseases caused by hard-metal dust;
- (vi) Bronchopulmonary diseases caused by dust of cotton (byssinosis), flax, hemp, sisal or sugar cane (bagassosis);
- (vii) Asthma caused by recognised sensitising agents or irritants inherent to the work process;
- (viii) Extrinsic allergic alveolitis caused by the inhalation of organic dusts of microbially contaminated aerosols, arising from work activities;
- (ix) Chronic obstructive pulmonary diseases caused by inhalation of coal dust, dust from stone quarries, wood dust, dust from cereals and agricultural work, dust in animal stables, dust from textiles, and paper dust, arising from work activities;
- (x) Diseases of the lung caused by aluminium;
- (xi) Upper airways disorders caused by recognised sensitising agents or irritants inherent to the work process;

- (xii) Other respiratory diseases that are not mentioned in the preceding items, where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the disease(s) contracted by the worker;

(b) Skin diseases

- (i) Allergic contact dermatoses and contact urticaria caused by other recognised allergy-provoking agents arising from work activities not included in other items;
- (ii) Irritant contact dermatoses caused by other recognised irritant agents arising from work activities not included in other items;
- (iii) Vitiligo caused by other recognised agents arising from work activities not included in other items;
- (iv) Other skin diseases caused by physical, chemical or biological agents at work that are not included under other items, where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the skin disease(s) contracted by the worker;

(c) Musculoskeletal disorders

- (i) Radial styloid tenosynovitis due to repetitive movements, forceful exertions and extreme postures of the wrist;
- (ii) Chronic tenosynovitis of hand and wrist due to repetitive movements, forceful exertions and extreme postures of the wrist;
- (iii) Olecranon bursitis due to prolonged pressure of the elbow region;
- (iv) Prepatellar bursitis due to prolonged stay in kneeling position;
- (v) Epicondylitis due to repetitive forceful work;
- (vi) Meniscus lesions following extended periods of work in a kneeling or squatting position;
- (vii) Carpal tunnel syndrome due to extended periods of repetitive forceful work, work involving vibration, extreme postures of the wrist, or a combination of the 3;
- (viii) Other musculoskeletal disorders that are not mentioned in the preceding items, where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the musculoskeletal disorder(s) contracted by the worker;

(d) Mental and behavioural disorders

- (i) Post-traumatic stress disorder;

- (ii) Other mental or behavioural disorders that are not mentioned in the preceding items, where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the mental and behavioural disorder(s) contracted by the worker.

3. Occupational cancer

(a) Cancer caused by the following agents

- (i) Asbestos;
- (ii) Benzidine and its salts;
- (iii) Bis-chloromethyl ether (BCME);
- (iv) Chromium VI compounds;
- (v) Coal tars, coal tar pitches or soots;
- (vi) Beta-naphthylamine;
- (vii) Vinyl chloride;
- (viii) Benzene;
- (ix) Toxic nitro-and amino-derivatives of benzene or its homologues;
- (x) Ionizing radiations;
- (xi) Tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances;
- (xii) Coke oven emissions;
- (xiii) Nickel compounds;
- (xiv) Wood dust;
- (xv) Arsenic and its compounds;
- (xvi) Beryllium and its compounds;
- (xvii) Cadmium and its compounds;
- (xviii) Erionite;
- (xix) Ethylene oxide;
- (xx) Hepatitis B virus (HBV) and hepatitis C virus (HCV);
- (xxi) Cancers caused by other agents at work that are not mentioned in the preceding items, where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these agents arising from work activities and the cancer(s) contracted by the worker.

4. Other diseases

- (a) Miners' nystagmus;
- (b) Other specific diseases caused by occupations or processes that are not mentioned in this list, where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure arising from work activities and the disease(s) contracted by the worker.

SCHEDULE 2
(Regulation 10(1))

DEMAND NOTICE TO OBTAIN DOCUMENTS OR INFORMATION

Demand Notice Number:

1. Details of Employer	
Name:	
Address:	
2. Details of Documents or Information Required	
<p>I, [name of Authorised Officer], an officer authorised by the Permanent Secretary under regulation 10(1) of the Accident Compensation (Employment Accidents) Regulations 2018 hereby require you on or before the [specify day] day of [specify month], 20 [specify year] to produce the following documents or information to the Ministry of Employment, Productivity and Industrial Relations and the Accident Compensation Commission Fiji:</p> <p>[specify documents and information]</p> <p>Failure to comply with the requirements of this Demand Notice on or before the date specified above is an offence under regulation 10(2) of the Accident Compensation (Employment Accidents) Regulations 2018.</p>	
3. Signature of Authorised Officer	
[signature of Authorised Officer]	Date: [day/month/year]
4. Affidavit of Service	
<p>I, [name of Authorised Officer whose signature appears in section 3], make oath and say that, on the [specify day] day of [specify month], 20 [specify year] at [specify address] I did serve upon the offender specified therein.</p> <p style="text-align: center;">[signature of Authorised Officer]</p> <p>Sworn by the above named Authorised Officer this [specify day] day of [specify month] 20 [specify year].</p> <p>Before:</p> <p style="text-align: center;">[name and signature of Commissioner for Oaths/Justice of the Peace]</p> <p>Commissioner for Oaths/Justice of the Peace</p>	

SCHEDULE 3
(Regulation 14(2)(a))

FIXED PENALTY NOTICE

Fixed Penalty Notice Number:

1. Details of Offender
Name:
Address:
2. Details of Offence
Statement of Offence:
Particulars of Offence:
Contrary to:
<p>This offence carries a maximum penalty of [\$. If you do not wish to contest this Fixed Penalty Notice, you are required to pay the fixed penalty of [\$] to the Ministry of Employment, Productivity and Industrial Relations.</p> <p>The payment of the fixed penalty is due within 30 days from the date of issue of this Fixed Penalty Notice and is payable at any office of the Ministry. If you pay the fixed penalty, all liability in respect of the offence will be discharged and no further action will be taken against you with respect to this particular offence.</p> <p>If you wish to contest this Fixed Penalty Notice, you may elect to dispute this Fixed Penalty Notice in court within 30 days from the date of issue of this Fixed Penalty Notice.</p> <p>If you fail to pay the fixed penalty or dispute this Fixed Penalty Notice in court within 30 days from the date of issue of this Fixed Penalty Notice, you will be —</p> <ul style="list-style-type: none"> (i) liable to a late payment fee equivalent to 50% of the fixed penalty, in addition to the Fixed Penalty; and (ii) issued a departure prohibition order preventing you from leaving Fiji. <p>You may pay your fixed penalty and late payment fee in a single payment or in instalments.</p> <p>The departure prohibition order will continue until you pay your fixed penalty and late payment fee in full or elect to dispute this Fixed Penalty Notice in court.</p> <p>If you do not pay your fixed penalty and late payment fee in full or elect to dispute this Fixed Penalty Notice in court within 3 months from the date this Fixed Penalty Notice is issued to you, this Fixed Penalty Notice will take effect as a conviction from the court and the Ministry may seek the maximum penalty from the court.</p>

3. Details of Authorised Officer	
Name:	Date: [day/month/year]
Signature:	
4. Affidavit of Service	
<p>I, [name of Authorised Officer whose signature appears in section 3], make oath and say that, on the [specify day] day of [specify month], 20 [specify year] at [specify address] I did serve upon the offender specified therein.</p> <p style="text-align: center;">[signature of Authorised Officer]</p> <p>Sworn by the above named Authorised Officer this [specify day] day of [specify month] 20 [specify year].</p> <p>Before:</p> <p style="text-align: center;">[name and signature of Commissioner for Oaths/Justice of the Peace]</p> <p>Commissioner for Oaths/Justice of the Peace</p>	

[LEGAL NOTICE NO. 110]

ACCIDENT COMPENSATION ACT 2017

Accident Compensation (School Accidents) 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—

PART 1—PRELIMINARY

Short title and commencement

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

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

Interpretation

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

“Act” means the Accident Compensation Act 2017;

“authorised officer” has the meaning given in section 2(1) of the Education Act 1966;

“controlling authority” means the controlling authority specified in the certificate of registration or recognition of a school in accordance with section 16(9) of the Education Act 1966;

“late payment fee” means a fee of \$500;

“Ministry” means the Ministry of Education, Heritage and Arts;

“Permanent Secretary” means the permanent secretary responsible for education;

“pupil” has the meaning given in section 2(1) of the Education Act 1966;

“school” has the meaning given in section 2(1) of the Education Act 1966;

“school accident” means an accident that occurs—

- (a) on any school premises during normal school hours; or
- (b) at any venue during a school event or activity; and

“school premises” includes any school building, office, classroom, workshop, dormitory, hostel, kitchen, clinic and any play area or playground within the school compound.

PART 2—ACCIDENTS OCCURRING ON ANY SCHOOL PREMISES

Controlling authority’s duty to report injury

3.—(1) If a pupil suffers any personal injury as a result of a school accident, the controlling authority of the school must report the school accident and injury to the Permanent Secretary and the Commission within 14 days from the date that the controlling authority becomes aware of the school accident and injury.

(2) The controlling authority’s report under subregulation (1) must be hand delivered or sent by post or electronic mail to the Permanent Secretary and the Commission, or in such other manner as specified by the Permanent Secretary or the Commission.

Controlling authority’s duty to report death

4.—(1) If a pupil dies as a result of a school accident, the controlling authority of the school must report the death of the pupil to the Permanent Secretary and the Commission within 7 days from the date that the controlling authority becomes aware of the school accident and death.

(2) The controlling authority’s report under subregulation (1) must—

- (a) be hand delivered or sent by post or electronic mail to the Permanent Secretary and the Commission, or in such other manner as specified by the Permanent Secretary or the Commission; and

- (b) state the circumstances of the death of the pupil, if the circumstances are known to the controlling authority.

Controlling authority to issue demand notice

5.—(1) If a controlling authority fails to comply with regulations 3 and 4 without reasonable cause, the Permanent Secretary or an authorised officer must issue the controlling authority with a demand notice to obtain documents or information in the form prescribed in Schedule 1.

(2) If a controlling authority fails to comply with the requirements of a demand notice issued under subregulation (1), the controlling authority commits an offence and is liable on conviction to a fine not exceeding \$10,000.

PART 3—FIXED PENALTY NOTICE

Issuance of Fixed Penalty Notice

6.—(1) The Permanent Secretary or an authorised officer may issue a Fixed Penalty Notice to a controlling authority alleged to have committed an offence under regulation 5(2) by serving the Fixed Penalty Notice—

- (a) through registered mail sent to the postal address of the school last recorded by the Ministry;
- (b) at the school office; or
- (c) through any electronic means as approved by the Permanent Secretary, including by electronic mail to a valid electronic mailing address submitted by the controlling authority to the Ministry and verified by the Ministry.

(2) In these Regulations, service of the Fixed Penalty Notice is deemed to have been effected if the Fixed Penalty Notice is—

- (a) in the form prescribed in Schedule 2; and
- (b) served in accordance with subregulation (1).

Fixed penalty

7. A controlling authority to whom a Fixed Penalty Notice is issued is liable to a fixed penalty of \$1,000 and must, within 30 days from the date the Fixed Penalty Notice is issued, undertake one of the following actions—

- (a) pay the fixed penalty in a single payment or by instalments; or
- (b) elect to dispute the Fixed Penalty Notice in a court.

Failure to pay fixed penalty

8.—(1) If a controlling authority to whom a Fixed Penalty Notice is issued does not undertake any of the actions in regulation 7 within the prescribed period, the controlling authority is liable to pay the late payment fee in addition to the fixed penalty and where the controlling authority is—

- (a) an individual, the individual shall be issued a departure prohibition order preventing him or her from leaving Fiji; or

- (b) a body corporate, all the officers of the body corporate in Fiji shall be issued a departure prohibition order preventing them from leaving Fiji,

unless the controlling authority undertakes one of the following actions—

- (i) pays the fixed penalty and late payment fee in a single payment or by instalments; or
- (ii) elects to dispute the Fixed Penalty Notice in a court.

(2) If a controlling authority to whom a Fixed Penalty Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Fixed Penalty Notice in a court, the controlling authority must notify the Ministry, on or before the payment of the fixed penalty and late payment fee, if applicable, of the controlling authority's intention to dispute the Fixed Penalty Notice.

(3) If a controlling authority to whom a Fixed Penalty Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Fixed Penalty Notice and the court subsequently makes a final determination in the controlling authority's favour, including the determination of any appeal in any appellate court, the Ministry must refund the fixed penalty and late payment fee, if applicable, to that controlling authority.

(4) If a controlling authority to whom a Fixed Penalty Notice is issued does not undertake any of the actions in regulation 7 within the prescribed period, the Ministry must notify the Director of Immigration immediately after the expiration of the prescribed period.

(5) Upon receipt of the notification from the Ministry under subregulation (4), the Director of Immigration must issue to—

- (a) where the controlling authority is an individual, the individual; or
- (b) where the controlling authority is a body corporate, all the officers of the body corporate in Fiji,

a departure prohibition order stating—

- (i) the reasons for the issue of the departure prohibition order;
- (ii) the fixed penalty and late payment fee that the controlling authority is required to pay; and
- (iii) that the departure prohibition order may be revoked if the controlling authority undertakes any of the actions listed in subregulation (1)(i) and (ii).

(6) If a departure prohibition order is issued to a controlling authority under this regulation, the controlling authority to whom the departure prohibition order is issued may pay in full the fixed penalty and late payment fee that the controlling authority is liable to, to the Ministry or, if the controlling authority intends to leave Fiji, to the Department of Immigration at an international airport in Fiji.

(7) Pursuant to subregulation (6), if a controlling authority pays in full the fixed penalty and late payment fee that the controlling authority is liable to, the departure prohibition order is deemed to have been revoked and the controlling authority must not be prevented from leaving Fiji on the basis of the departure prohibition order issued under this regulation.

Failure to take action within 3 months

9. If a controlling authority to whom a Fixed Penalty Notice is issued does not undertake any of the actions provided in regulation 8(1)(i) and (ii) within 3 months from the date the Fixed Penalty Notice is issued, the Fixed Penalty Notice takes effect as a conviction and the Ministry may seek the maximum penalty for the prescribed offence from a court.

Made this 23rd day of December 2018.

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

SCHEDULE 1
(Regulation 5(1))

DEMAND NOTICE TO OBTAIN DOCUMENTS OR INFORMATION

Demand Notice Number:

1. Details of School	
Name:	
Address:	
2. Details of Documents or Information Required	
<p>I, [name of Authorised Officer], an officer authorised by the Permanent Secretary under regulation 5(1) of the Accident Compensation (School Accidents) Regulations 2018 hereby require you on or before the [specify day] day of [specify month], 20 [specify year] to produce the following documents or information to the Ministry of Education, Heritage and Arts and the Accident Compensation Commission Fiji:</p> <p>[specify documents and information]</p> <p>Failure to comply with the requirements of this Demand Notice on or before the date specified above is an offence under regulation 5(2) of the Accident Compensation (School Accidents) Regulations 2018.</p>	
3. Signature of Authorised Officer	
[signature of Authorised Officer]	Date: [day/month/year]
4. Affidavit of Service	
<p>I, [name of Authorised Officer whose signature appears in section 3], make oath and say that, on the [specify day] day of [specify month], 20 [specify year] at [specify address] I did serve upon the offender specified therein.</p> <p style="text-align: center;">[signature of Authorised Officer]</p> <p>Sworn by the above named Authorised Officer this [specify day] day of [specify month] 20 [specify year].</p> <p>Before:</p> <p style="text-align: center;">[name and signature of Commissioner for Oaths/Justice of the Peace]</p> <p>Commissioner for Oaths/Justice of the Peace</p>	

SCHEDULE 2
(Regulation 6(2)(a))

FIXED PENALTY NOTICE

Fixed Penalty Notice Number:

1. Details of Offender
Name:
Address:
2. Details of Offence
Statement of Offence:
Particulars of Offence:
Contrary to:
<p>This offence carries a maximum penalty of [\$]. If you do not wish to contest this Fixed Penalty Notice, you are required to pay the fixed penalty of [\$] to the Ministry of Education, Heritage and Arts.</p> <p>The payment of the fixed penalty is due within 30 days from the date of issue of this Fixed Penalty Notice and is payable at any office of the Ministry. If you pay the fixed penalty, all liability in respect of the offence will be discharged and no further action will be taken against you with respect to this particular offence.</p> <p>If you wish to contest this Fixed Penalty Notice, you may elect to dispute this Fixed Penalty Notice in court within 30 days from the date of issue of this Fixed Penalty Notice.</p> <p>If you fail to pay the fixed penalty or dispute this Fixed Penalty Notice in court within 30 days from the date of issue of this Fixed Penalty Notice, you will be —</p> <ul style="list-style-type: none"> (i) liable to a late payment fee equivalent to 50% of the fixed penalty, in addition to the Fixed Penalty; and (ii) issued a departure prohibition order preventing you from leaving Fiji. <p>You may pay your fixed penalty and late payment fee in a single payment or in instalments.</p> <p>The departure prohibition order will continue until you pay your fixed penalty and late payment fee in full or elect to dispute this Fixed Penalty Notice in court.</p> <p>If you do not pay your fixed penalty and late payment fee in full or elect to dispute this Fixed Penalty Notice in court within 3 months from the date this Fixed Penalty Notice is issued to you, this Fixed Penalty Notice will take effect as a conviction from the court and the Ministry may seek the maximum penalty from the court.</p>

3. Details of Authorised Officer	
Name:	Date: [day/month/year]
Signature:	
4. Affidavit of Service	
<p>I, [name of Authorised Officer whose signature appears in section 3], make oath and say that, on the [specify day] day of [specify month], 20 [specify year] at [specify address] I did serve upon the offender specified therein.</p> <p style="text-align: center;">[signature of Authorised Officer]</p> <p>Sworn by the above named Authorised Officer this [specify day] day of [specify month] 20 [specify year].</p> <p>Before:</p> <p style="text-align: center;">[name and signature of Commissioner for Oaths/Justice of the Peace]</p> <p>Commissioner for Oaths/Justice of the Peace</p>	