

EMPLOYMENT RELATIONS (ADMINISTRATION) REGULATIONS 2008

ARRANGEMENT OF SECTIONS

SECTION

PART 1 – PRELIMINARY

1. Citation and Commencement
2. Interpretation

PART II – EMPLOYMENT GRIEVANCES AND MEDIATION

3. Referral of employment grievances to Mediation Services
4. Mediator to notify parties
5. Mediator may request written statements
6. Mediator may request attendance of non parties
7. Mediator may meet with parties separately
8. Mediator may make recommendations
9. Timeframe for mediation
10. Certificate for mediation
11. Referral of employment grievances or disputes to the Employment Relations Tribunal

PART III- EMPLOYMENT DISPUTES, TRIBUNAL AND COURT

12. Reporting of a dispute to the Permanent Secretary
13. Permanent Secretary to notify parties
14. Referral of disputes to Mediation Services
15. Referral of employment disputes to Employment Relations Tribunal
16. Matters to be heard by the Employment Relations Court

PART IV- EMPLOYMENT RECORDS AND WAGE ORDERS

17. Wages and time record
18. Employment Register
19. Wages Regulation Orders

PART V – TRADE UNIONS

Division 1 – General

20. Registrar to keep Register
21. Application form for trade union registration
22. Certificate of registration

23. Notice of change of officers
24. Application for change of trade union name
25. Dissolution of trade union
26. Constitution and rules to be made available for inspection

Division 2 – Amalgamation, alteration or change of name, affiliation to federation of trade unions

27. Members to be informed of amalgamation proposal
28. Forwarding of results of secret ballots for amalgamation
29. Alteration or change of name
30. Affiliation to federation of trade union

Division 3 – Accounts

31. Annual return
32. Trade union to keep proper financial records

PART VI – STRIKE BALLOT

33. Notice of secret ballot to the Registrar
34. Secret ballot procedure for strike action
35. Ballot counting procedure
36. Forwarding of results of secret ballot

PART VII – FEES AND EMPLOYMENT RELATIONS AGENCY FUND

37. Prescribed fees
38. The Employment Relations Agency Fund
39. Payments from the Fund

PART VIII – CHILDREN

40. Conditions of work
41. Hours of work and night employment

PART IX – LEAVE AND HOLIDAYS

42. Declared Public Holidays
43. Bereavement leave
44. Maternity leave
46. Offences

PART X – DEMAND AND PENALTY NOTICES

- 47. Demand Notice
- 48. Penalty Notice
- 49. Notices may include directions

PART XI – HOURS OF WORK

- 50. Maximum number of hours

PART XII - MISCELLANEOUS

- 51. Certificate of registration of a collective agreement
- 52. Record of strike or lockout
- 53. Power to issue duplicate copies
- 54. Notices
- 55. Penalties

PART XIII – REVOCATION, TRANSITIONAL AND SAVINGS

- 56. Definitions
- 57. Transfer of jurisdiction
- 58. Transfer of proceedings
- 59. Arbitration Tribunal remains in existence
- 60. Limited jurisdiction of the Arbitration Tribunal
- 61. Terms and conditions of appointment of members of the Arbitration Tribunal
- 62. Revocation of Regulations

[LEGAL NOTICE NO.]

EMPLOYMENT RELATIONS PROMULGATION 2007

(No. 36 of 2007)

EMPLOYMENT RELATIONS (ADMINISTRATION) REGULATIONS 2008

IN exercise of the powers conferred upon me by Section **264** of the Employment Relations Promulgation 2007 ("the Promulgation") and acting on the advice of the Employment Relations Advisory Board ("the Board"), I make these Regulations-

PART 1 — PRELIMINARY

Citation and commencement

1.-(1) These Regulations may be cited as the Employment Relations (Administration) Regulations 2008.

(2) These Regulations come into force on the 2nd day of April 2008.

Interpretation

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

"Chief Mediator" means the person appointed as Chief Mediator under section **193** of the Promulgation;

"Employment Relations Agency Fund" means a special account established within the Ministry under section 20 of the Financial Management Act 2004 for the purposes of Part 6 of these Regulations;

"Mediation Services" means the Mediation Services established under section **193** of the Promulgation;

"Ministry" means the Ministry responsible for the administration of the Employment Relations Promulgation 2007 and its Regulations;

“Officer” means an officer of the Ministry responsible for the administration of the Promulgation and its Regulations;

“Permanent Secretary” means the Permanent Secretary *for* the Ministry;

“preliminary conference” means a meeting to deal with procedural or administrative matters in connection with a mediation.

For all other definitions, reference should be made to Part 1 Section 4 of the Promulgation.

PART 2 — EMPLOYMENT GRIEVANCES AND MEDIATION

Referral of employment grievance to Mediation Services

3.-(1) A referral of an employment grievance to the Mediation Services must be made in Form 1 set out in Schedule 1 of these Regulations.

(2) A copy of the referral in sub regulation (1) must be sent to the employer to which the employment grievance relates at the same time the employment grievance has been referred to the Mediation Services.

Mediator to notify parties

4.-(1) As soon as possible but not later than 7 days of the Mediation Services receiving the referral under regulation 3, the appointed Mediator shall issue a notice to the parties that sets out -

- (a) the name of the appointed Mediator;
- (b) the time and place of any preliminary conference, if applicable; and
- (c) the time and place of the mediation.

(2) The notice referred to in sub regulation (1) must be issued in Form 2 set out in Schedule 1 and may be issued by facsimile, internet e-mail service or by post

(3) If a party wishes to request a change of date for the preliminary conference or mediation, the party must inform the Mediator at least 7 working days before the preliminary conference or mediation is due to take place.

(4) The Mediator may reschedule the preliminary conference or mediation if the Mediator is satisfied that one of the parties has a reasonable excuse for not attending the preliminary conference or mediation on the scheduled date.

(5) The Mediator may hold more than one mediation sessions if he or she believes that further mediation sessions are necessary to resolve the employment grievance or dispute.

(6) Further mediation conferences are to be scheduled by mutual agreement between the parties.

Mediator may request written statements from parties

5.-(1) The Mediator may request that each party submits a confidential statement prior to the mediation that sets out any matters that the Mediator considers relevant to the mediation, including -

- (a) the issues in employment grievance or employment dispute;
- (b) the claims and defences;
- (c) relevant factual matters; and
- (d) the remedy sought.

(2) The Mediator may request further information from the parties in the course of mediation.

(3) The parties may, of their own volition, provide further information to the Mediator during the course of the mediation.

Mediator may request attendance of non-parties

6. The Mediator may request that a person who is not a party to the employment grievance or employment dispute attend the mediation if the Mediator believes that the person's presence would assist in the settlement of the employment grievance or employment dispute.

Mediator may meet with parties separately

7. The Mediator may meet and communicate separately with a party provided that information given at such meetings and in such communications may not be disclosed

to the other party without the express authorisation of the party giving the information.

Mediator may make recommendations

8. At the request of both parties, the Mediator may make non-binding recommendations to assist the parties to resolve the employment grievance or employment dispute.

Timeframe for mediation

9.-(1) The Mediator and the parties must complete the mediation within 30 days from the date of the first mediation session.

(2) If a Mediator fails to resolve an employment grievance or employment dispute within the timeframe set out in sub regulation (1)-

- (a) the parties may extend the timeframe by mutual agreement; or
- (b) the Mediator may refer the matter to the Employment Tribunal.

(3) If the Mediator determines that the employment grievance or employment dispute is unlikely to be resolved through mediation, the Mediator may refer the case to the Employment Relations Tribunal before the timeframe in sub regulation (1) lapses.

Certificate of mediation

10.-(1) When a mediation has been completed, the Mediator must issue a certificate stating whether the employment grievance or employment dispute has been resolved or referred to the Employment Relations Tribunal.

(2) A copy of the certificate completed for the purposes of sub regulation (1)-

- (a) must not contain confidential materials arising from the mediation; and
- (b) must be served on the parties involved in the mediation.

(3) The Mediator must file the original of the certificate referred to in sub regulation (1) with the Mediation Services.

(4) The certificate referred to in sub regulation (1) must be issued in Form 3 set out in Schedule 1.

Referral of employment grievance or dispute to the Tribunal

11. When the Mediator refers an employment grievance or employment dispute to the Employment Relations Tribunal, the Mediator shall set out the details of the employment grievance or employment dispute as initially reported to mediation in Form 4 set out in Schedule 1.

PART 3 – EMPLOYMENT DISPUTES, TRIBUNAL AND COURT

Reporting of a dispute to the Permanent Secretary

12.-(1) A report of a dispute required under section 169(2) of the Promulgation must be made in Form 5 set out in Schedule 1.

(2) A copy of the report of the dispute in sub regulation (1) must be provided within 3 days to the trade union or the employer to which the dispute relates.

Permanent Secretary to notify parties

13. -(1) Within 30 days after receiving the report of the dispute under regulation 12, the Permanent Secretary shall inform the parties or their representatives in writing that he or she accepts or rejects the dispute, and give reasons for rejecting the dispute.

(a) In exercising his powers under this section, the Permanent Secretary must be satisfied that the parties to the dispute have taken all reasonable means to exhaust the grievance procedure and have engaged in good faith in attempting to resolve the dispute.

(b) The Permanent Secretary may reject the dispute and refer the dispute back to the parties if he is satisfied that the parties have not engaged in good faith negotiations in attempting to resolve the dispute.

(2) If a report of a dispute is accepted by the Permanent Secretary, it becomes an employment dispute, and he or she shall refer the employment dispute either to the Employment Relations Tribunal or the Mediation Services in accordance with section 170(4) of the Promulgation, with notification to the parties.

Referral of employment dispute to Mediation Services

14.-(1) A referral of an employment dispute by the Permanent Secretary to the Mediation Services must be made in Form 6 set out in Schedule 1.

(2) A copy of the referral in sub regulation (1) must be sent to the trade union and employer to which the dispute relates at the same time the employment dispute has been referred to the Mediation Services

Referral of employment dispute to Employment Relations Tribunal

15.-(1) A referral of an employment dispute by the Permanent Secretary to the Employment Relations Tribunal must be made in Form 7 set out in Schedule 1.

(2) A copy of the referral in sub regulation (1) must be sent to the trade union and employer to which the dispute relates at the same time the employment dispute has been referred to the Employment Relations Tribunal.

Matters to be heard by the Employment Relations Court

16. An application to refer an employment grievance or an employment dispute or other employment related matters to the Employment Relations Court and its resolution or decision by the Court, shall be in accordance with the relevant provisions of the Promulgation.

PART 4 — EMPLOYMENT RECORDS AND WAGES ORDERS

Wages and time record

17.-(1) An employer who employs a worker shall keep a Wages and Time Record, as required under section **45** of the Promulgation.

(2) The Wages and Time Record referred to in sub regulation (1) shall include the details of the maternity leave payments, the record of leave and entitlements, and the conditions of employment of children specified under section **99** of the Promulgation.

(3) The requirement under sub regulation (2) does not abrogate the requirement under section 99 of the Promulgation to keep a separate register for working children.

(4) The register referred to in (3) must contain details of:

- (a) hours of work;
- (b) the rate of pay per contract period;

- (c) the number of breaks given per contract period;
- (d) whether any contribution is deducted and paid in respect of the Fiji National Provident Fund Act (Cap 219);
- (e) whether any contract of service has been made with the child;
- (f) whether any dispute has been raised by the child, and if so, what measures were taken to resolve them.

(5) All records are required to be kept by employers for at least 6 years, in accordance with section **45**(2) of the Promulgation.

Employment Register

18.-(1) Pursuant to section **45**(1)(j) of the Promulgation, an employer shall keep an Employment Register, comprising the Wages and Time Record for workers including children, required under regulation 17, the Record for Labour-Management Consultation and Cooperation Committee required under the Employment Relations (Labour-Management Consultation and Cooperation Committees) Regulations 2007, and additional employment particulars specified in sub regulation (2).

(2) As part of the Employment Register of a worker, the employer shall provide a record of additional employment particulars specified in Form 8 set out in Schedule 1.

(3) An employer must make available the information in the Employment Register or any part of it upon request by the Permanent Secretary within 14 days

(4) The Employment Register required to be kept by an employer under sub regulation (1) shall also include any other information prescribed to be kept by an employer under any provision of the Promulgation or its Regulations.

(5) The Permanent Secretary may extend the compliance date in special circumstances.

Wages Regulations Orders

19.-(1) Pursuant to section **54**(5) of the Promulgation, where the Minister agrees to a Wages Regulation Order proposal submitted from a Wages Council, the Minister shall forthwith make the Order.

(2) Remuneration (including leave and holiday remuneration) fixed by a Wages Regulation Order shall be referred to as "statutory minimum remuneration".

- (3) The Wages and Time Record with respect to a Wages Regulation Order shall be kept by an employer in a form similar to that provided in Regulation 17.
- (4) All the Wages Councils listed in Schedule 3 shall meet as often as necessary and at least once annually to make proposals to the Minister.
- (5) If the Wages Councils are unable to reach consensus about proposals, each party may put separate proposals to the Minister.
- (6) If any employer or industry affected by a Wages Regulation Order pleads inability to pay, that employer or industry must write to the Minister explaining the reasons why it so pleads.
- (7) The Minister may exempt any employee or class of employers or industry from any part of the Order.
- (8) The Minister must publish any notice of exemption in the Gazette.

PART 5 — TRADE UNIONS

Division 1 – General

Registrar to keep Register

20. The register of trade unions that is required to be kept under section **118** of the Promulgation must be kept in a form that includes the following information for each trade union -

- (a) registered name of trade union;
- (b) physical location of registered office;
- (c) postal address of registered office;
- (d) physical location of branch offices, if any;
- (e) date of registration;
- (f) a description of the industry, occupation or enterprise in relation to which the union operates;
- (g) information that is required by section 118(1)(b) of the Promulgation;
- (h) date and details of any cancellation of registration;
- (i) date and details of any suspension of registration and the period of suspension; and
- (j) other relevant matters.

Application form for trade union registration

21. An application to register as a trade union under section 119 of the Promulgation must be -

- (a) made in Form 9 set out in Schedule 1; and
- (b) accompanied by the fee set out in Schedule 2.

Certificate of registration

22. A certificate of registration of trade union under section 126 of the Promulgation must be issued in Form 10 set out in Schedule 1.

Notice of change of officers

23. If there is a change of officers or in the titles of officers of a trade union, the trade union must notify the Registrar of Trade Unions within 14 days of the change taking place.

Application for change of trade union name

24. If there is a change in the name of a trade union, the trade union must notify the Registrar within 14 days of the change taking place.

Dissolution of a trade union

25. A notice of the dissolution of a trade union must be sent to the Registrar within 14 days of such dissolution.

Constitution and rules to be available for inspection

26. The constitution, rules and list of officers of a trade union must be available for inspection *by members of that trade union* at the office of the Registrar during office hours, upon payment of the fee set out in Schedule 2.

Division 2 – Amalgamation, alteration or change of name, affiliation to federation of trade unions

Members to be informed of amalgamation proposal

27. -(1) If a trade union proposes to amalgamate with another trade union under section 123 of the Promulgation, the trade union must take all reasonable steps to inform its members of –

- (a) the reasons for the amalgamation;
- (b) the conditions under which the amalgamation will take place; and
- (c) the time and place of the secret ballot.

(2) For the purposes of sub regulation (1), 'all reasonable steps' includes posting a notice that includes the information in sub regulation (1) in the registered office of the trade union and all of its branches, and the notice to remain in place for at least two weeks before the secret ballot and until its completion.

Forwarding of results of secret ballot for amalgamation

28.-(1) The trade unions must send the following documents to the Registrar as soon as possible but within 30 days after the results of the secret ballots are known –

- (a) signed certificate of the result of the ballot; and
- (b) a copy of the notice of amalgamation with prescribed fee.

(2) The certificate of the result of the ballot in sub regulation (1) must be provided in Form 11 set out in Schedule 1.

(3) The notice of amalgamation must be provided in Form 12 set out in Schedule 1.

Alteration or change of name

(29).-(1) If a trade union wishes to alter or change its name under section **122** of the Promulgation, the trade union must take all reasonable steps to inform its members of –

- (a) the reasons for the alteration or change; and
- (b) the time and place of the secret ballot.

(2) For the purposes of subregulation (1), "all reasonable steps" include posting a notice that contains the information in subregulation (1) in the registered office of the trade union and all of its branches, and the notice to remain in place for at least two weeks before the secret ballot and until its completion.

Affiliation to federation of trade union

30.-(1) If a trade union wishes to affiliate to a federation of trade unions under section **124** of the Promulgation, the trade union must take all reasonable steps to inform its members of –

- (a) the reasons for the affiliation;
- (b) the conditions for the affiliation; and the
- (c) the time and place of the secret ballot.

(2) For the purposes of subregulation (1), “all reasonable steps” include posting a notice that contains the information in subregulation (1) in the registered office of the trade union and all of its branches, and the notice to remain in place for at least two weeks before the secret ballot and until its completion.

Division 3 – Accounts

Annual return

31. The annual return of a trade union required under section 129(2) of the Promulgation must be made in Form 13 set out in Schedule 1, and accompanied by four copies of the rules of the trade union in force at the end of the calendar year in question.

Trade union to keep proper financial records

32.-(1) A trade union must -

- (a) keep such financial records as correctly recorded and explain the transactions and financial position of the trade union;
- (b) keep its financial records in a manner that will enable an annual return to be prepared under section 129 of the Promulgation; and
- (c) keep its financial records in a manner that will enable the accounts of the trade union to be conveniently and properly audited.

(2) A trade union must retain the financial records kept under subregulation (1) for a period of 6 years after the completion of transactions to which they relate.

(3) A trade union that does not comply with sub regulations (1) or (2) commits an offence.

Part 6 – Strike Ballot

Notice of Secret Ballot to the Registrar

33.-(1) A notice of a secret ballot required under section 175(2) of the Promulgation must be made to the Registrar in Form 14 set out in Schedule 1 no less than 21 days prior to the nominated date to hold the ballot.(2) A copy of the notice in sub regulation (1) must be sent to the employer or employers to which the secret ballot relates, at the same time as the notice is sent to the Registrar.

(3) Where a copy of the notice has not been sent by the union, the secret ballot results will be deemed to be invalid and any strike action which takes place on the basis of a mandate obtained from these results will be deemed to be unlawful.

(4) In the case of an employment dispute, all internal dispute procedures must be exhausted before a notice of secret ballot to obtain a strike mandate is sent to the Registrar.

(5) In the case of negotiations for a new collective agreement or a variation to a collective agreement, "good faith" bargaining must have taken place in accordance with the Promulgation and not less than 21 days have elapsed since face to face negotiations commenced, before a notice of secret ballot to obtain a strike ballot is sent to the Registrar.

(6) Where more than one employer is involved, the union must complete a separate Form 14 for each different employer.

Secret ballot procedure for strike action

34.-(1) This regulation sets out the procedures for conducting a secret ballot for strike action by a trade union.

(2) The secret ballot must be conducted by a returning officer of the union who shall determine the dates and places on which the ballot is to be held supervised by an official of the Registrar of Trade Unions.

(3) The trade union must provide the returning officer with -

- (a) a written list of the members who are eligible to vote in the secret ballot;
- (b) an adequate supply of ballot papers; and
- (c) a ballot box fitted with a lock and key.

(4) The ballot papers referred to in sub regulation (3) must be in Form 15 set out in Schedule 1.

(5) Before the start of the ballot, the returning officer shall -

- (a) mark off on the list of eligible members, the member who collects a ballot paper;
- (b) ensure that there is a screen or similar device in place to enable members to mark their ballot papers in secret; and
- (c) instruct each member to fold the ballot paper before depositing in the ballot box.

Ballot Counting Procedure

35.-(1) Once the ballot conducted under regulation 31 has closed, the returning officer, with the supervision of an official of the Registrar, must as soon as is practicable:

- (a) count the valid votes;
- (b) record the number of valid votes-
 - (i) in favour of strike action;
 - (ii) against the strike action; and
- (c) count the number of informal or invalid votes.

(2) Once the results of the ballot have been recorded, the returning officer must prepare and sign the certificate of the results of the ballot.

Forwarding of results of secret ballot for strike action

36.-(1) The returning officer must, as soon as possible and in writing, notify -

- (a) the Registrar of the results of the ballots through a signed certificate of the results of the ballot; and
- (b) the Permanent Secretary, of the trade union's 28 days notice of strike in the case of essential service as provided for in section **186**(1)(b) of the Promulgation.

(2) The certificate of the results of the ballot in sub regulation (1) must be provided in Form 16 set out in Schedule 1.

(3) A trade union that does not comply with any of the procedures set out in sub regulations (1) and (2) commits an offence.

PART 7 – FEES AND EMPLOYMENT RELATIONS AGENCY FUND

Prescribed Fees

37.-(1) The fees, for the purposes of the Promulgation, are listed in Schedule 2 and shall be payable in respect of the matters specified therein.

(2) All the fees prescribed under Schedule 2 shall be paid in to the Employment Relations Agency Fund established within the Ministry.

(3) The fees listed under Schedule 2 shall be paid by the employer, trade union or any person representing or agent of the employer or trade union whichever is applicable or any other person or entity, before or at the time of the respective prescribed activity or employment relations (ER) training or productivity improvement (PI) training or other mediation services or consultancy services are undertaken by any officer of the Ministry or Mediator.

(4) No certificate of registration or other certificate of user-pay service shall be issued before payment in full of the applicable fee.

The Employment Relations Agency Fund

38.-(1) There shall be established within the Ministry a special account as the Employment Relations Agency Fund.

(2) The Fund shall consist of –

- (a) the fees paid pursuant to these Regulations;
- (b) any penalty payment paid in response to any Fixed Penalty Notice issued under section 263 of the Promulgation;
- (c) any money provided by Parliament for the purpose of the Fund or required to be paid into the Fund by or under these Regulations or any other written law; and
- (d) any donation to the Fund for the promotion of good faith employment relations or productivity improvement in Fiji.

(3) There shall be paid out of the Fund all amounts payable under regulation 39 and all other amounts required to be paid out of the Fund by or under these Regulations.

Payments from the Fund

39.-(1) The money standing to the credit of the Fund may be applied by the Permanent Secretary, on the advice of the Ministry of Finance, for the purposes of –

- (a) promoting or ensuring good faith employment relations in workplaces;
- (b) promoting or ensuring productivity improvements in workplaces;
- (c) education or training or research in employment relations;
- (d) education or training or research in productivity improvements;
- (e) capacity building of Labour-Management Consultation and Cooperation Committees in private and public sector enterprises and organizations;
- (f) capacity building of the Ministry to effectively administer, promote and enforce the policy framework and legal requirements of the Promulgation and its Regulations and Codes of Practice;
- (g) capacity building of the Mediation Services of the Ministry to promote effective delivery of mediation services and related conflict resolution mechanisms; and
- (h) capacity building of the Employment Relations Advisory Board to effectively fulfil its functions and roles.

(2) The Permanent Secretary shall submit to the Employment Relations Advisory Board on request the details of the expenditure incurred under the Fund.

PART 8 – CHILDREN

Conditions of work

40.-(1) A child must not be employed or permitted to be employed in any of the following situations:

- (a) in situations of direct hostilities;
- (b) any work for which the child has little capacity;
- (c) any work which is hazardous to the child's health, mental, spiritual or social development;
- (d) in an environment which subjects the child to physical harm, psychological torture, any form of neglect, torture, any form of cruel, inhuman or degrading treatment, or which does not foster the health, self-respect and dignity of the child.

(2) An employer who does not comply with sub regulation (1) commits an offence.

Hours of work for children and night employment

41.-(1) For the purposes of section 97 of the Promulgation, a child must not be employed for more than 8 hours during daylight hours.

(2) Each child employed during daylight hours must be given a 30 minute paid lunch break.

(3) For the purposes of section 98 of the Promulgation, no child may work beyond 10 pm at night.

(4) Each child employed during night employment must be given a 30 minute paid dinner break within 2 hours of starting work.

(5) No child may be employed for more than 8 hours per day.

(6) Any employer who does not comply with this regulation commits an offence.

PART 9 – LEAVE AND HOLIDAYS

Declared Public Holidays

42.-(1)The public holidays for Ratu Sir Lala Sukuna Day, Queen’s Birthday and Youth Day must be celebrated on the days on which they fall.

(2) The public holidays in respect of Fiji Day should always be observed on the 10th of October each year.

Bereavement leave

43. Bereavement leave entitlement must not be accumulated and unused bereavement leave for each year automatically lapses in the following year.

Maternity Leave

44.-(1) A woman is entitled to the normal remuneration she would have received as if she had been at work for her first 3 births;

(2) For the 4th and subsequent births a woman is entitled to at half the normal remuneration she would have received as if she had been at work; and

(3) Sub regulation 1 shall not apply when a woman is employed by another employer or employers after giving birth to her third child, or where a woman is previously unemployed during any of her first births.

(4) Where the woman’s place of employment is on an island with no doctor or hospital, or where the woman works on a boat or shipping vessel with no fixed location for the majority of her time at work, or where special medical circumstances require, the employer may require her to commence her maternity leave on a date recommended by her registered medical practitioner or registered nurse.

(5) For the purposes of subregulation (4), a woman should provide the certificate to her employer 3 months prior to her expected delivery date.

45. For the purposes of section 103 of the Promulgation, a woman may nominate a person by-

- (a) Will; or
- (b) any writing that by law is recognised as a valid authority from the woman;
- (c) a dying declaration;

and any person so nominated will be treated as a valid disposition under the Wills Act (Cap 59);

(2) The Permanent Secretary who receives the outstanding wages of a woman pursuant to Section 103(b) of the Promulgation, hold the wages in trust, and must pay the wages to an executor/Trustee or personal representative of the woman's estate pursuant to the Succession, Probate and Administration Act (Cap 60).

(3) The Permanent Secretary may hold the wages in an interest bearing deposit account until he receives notice from an executor/Trustee or personal representative of the woman's estate. Any interest earned from the account will be paid into the Employment Relations Agency Fund, minus any costs associated with maintaining the account.

(4) A person claiming to be a beneficiary of the estate of the woman may notify the Permanent Secretary of that person's entitlement to claim such wages held by the Permanent Secretary, and upon such proof as is necessary to satisfy the Succession, Probate and Administration Act, the Permanent Secretary may pay out such wages as held.

(5) For the purposes of section 6(1)(l) of the Succession, Probate and Administration Act, such wages will be paid into the Employment Relations Agency Fund.

Offences

46.-(1) Any person who contravenes a provision under these Regulations relating to this Part commits an offence.

(2) Under this Part, 'person' means an employer, a trade union or any person representing or agent of the employer or trade union or any other person or entity securing a prescribed user-pay service from the Ministry.

PART 10 — DEMAND AND PENALTY NOTICES

Demand Notice

47.-(1) A demand notice that is issued under section **19**(4) of the Promulgation must be issued in Form 17 set out in Schedule 1.

(2) A Permanent Secretary, a labour officer or a labour inspector may serve a demand notice on an employer, a trade union or a person, for the purpose for ensuring compliance with any provision of the Promulgation or its Regulations.

Penalty notice

48.-(1) A fixed penalty notice that is issued under section **263**(3) of the Promulgation must be issued in Form 18 set out in Schedule 1.

(2) A labour officer or a labour inspector may serve a penalty notice on an employer or a trade union or a person, if it appears to the labour officer or the labour inspector that the employer or the trade union or the person has committed an offence against any provision specified in Column 1 of Schedule 8 to the Promulgation.

(3) For the purposes of section **263**(3) of the Promulgation, the fixed penalties to be issued for fixed penalty notices are set out in Column 2 of Schedule 8 to the Promulgation.

(4) Any penalty paid under a fixed penalty notice shall be paid into the Employment Relations Agency Fund.

(5) An employer or a person who is served with the penalty notice and pays the full penalty specified under the notice shall not be prosecuted for that particular offence.

Notices may include directions

49.-(1) A demand notice or penalty notice may include directions as to the measures to be taken to remedy the matters to which the notice relates.

(2) A direction under sub regulation (1) may-

(a) refer to an approved code of practice or national policy; and/or

(b) offer the person to whom it is issued a choice of ways in which to remedy the matters to which the notice relates.

(3) For the purposes of this Part, a notice may be served personally or by post.

PART 11— HOURS OF WORK

Maximum number of hours

50.-(1) The hours of work specified in section 72 of the Promulgation are for the purposes of calculating overtime when they become due; after 8 hours for a six day week and after 9 hours for a five day week.

(2) Where it is not practicable for an employer to strictly adhere to the arrangement in sub regulation 1 because of the peculiar needs of the business, an employer shall have regard to the provisions of the relevant Wages Regulation Orders.

PART 12— MISCELLANEOUS

Certificate of registration of a collective agreement

51. A certificate of registration of a collective agreement under section **166**(4)(b) of the Promulgation must be issued in Form 19 set out in Schedule 1.

Record of strike or lockout

52. A record of a strike or lockout under section **183** of the Promulgation must be made in Form 20 set out in Schedule 1.

Power to issue duplicate copies

53.-(1) A person who is authorised to issue a document under the Promulgation or its Regulations may issue a duplicate of the document if—

- (a) it is proven that such document has been lost or destroyed; and
- (b) the prescribed fee is paid.

(2) If the document that was thought to have been lost or destroyed is found after a duplicate is issued, the document that was thought to be lost or destroyed must be surrendered to the Registrar of Trade Unions or the Permanent Secretary.

Notices

54. A notice that is required to be served may be served on the parties personally, or by facsimile, internet, e-mail service or by post. If posted, may be posted to an address advised in writing by a party, or to the last known address of the party, and will be deemed received 5 working days after posting. If served by facsimile or electronic transmission, it will be deemed received on the date sent by facsimile or other electronic transmission. If personally served, it will be deemed received at the date and time of actual receipt.

Penalties

55.-(1) Any person who contravenes a provision of these Regulations commits an offence and, unless otherwise provided, shall be liable for a fine not exceeding \$20,000.

(2) Under these Regulations, a 'person' means an employer, a trade union or any person representing or agent of the employer or trade union or any other person or entity securing a prescribed user-pay service from the Ministry or other service prescribed to be undertaken under these Regulations.

PART 13 — REVOCATION, TRANSITIONAL AND SAVINGS

Definitions

56. In this Part –

"Arbitration Tribunal" means the body established under Section 20 of the Trade Disputes Act (Cap 97);

"Commencement date" means the date on which the Employment Relations Promulgation 2007 comes into force;

"completion date" means the day, on or after which the Arbitration Tribunal has disposed of all the proceedings in that Tribunal.

Transfer of jurisdiction

57.-(1) This regulation applies to jurisdiction and powers vested in or exercisable by the Arbitration Tribunal or a member of that Tribunal immediately before the commencement date in relation to an act or omission occurring before the commencement date, except in relation to matters for which the Arbitration Tribunal had begun the substantive hearing in proceedings.

(2) On and after the commencement date, the jurisdiction and powers to which this regulation applies -

- (a) cease to be vested in or exercisable by the Arbitration Tribunal or a member of that Tribunal; and
- (b) are vested in the Employment Relations Tribunal.

Transfer of proceedings

58.-(1) This regulation applies to proceedings commenced in the Arbitration Tribunal but in respect of which the Arbitration Tribunal had not begun the substantive hearing before the commencement date.

(2) On the commencement date, proceedings to which this regulation applies are transferred to the Employment Relations Tribunal.

(3) If proceedings to which this item applies are transferred under sub regulation (2) -

- (a) all documents filed in the Arbitration Tribunal in relation to the proceedings are to be transmitted to the Employment Relations Tribunal; and
- (b) everything done in or in relation to the proceedings in the Arbitration Tribunal is taken to have been done in the Employment Relations Tribunal.

Arbitration Tribunal remains in existence

59.-(1) The Arbitration Tribunal continues in existence as if the Trade Disputes Act (Cap 97) is in force immediately before the commencement date and continued to be in force on and after that commencement.

(2) Sub regulation (1) ceases to have effect on after the completion date.

Limited jurisdiction of the Arbitration Tribunal

60.-(1) This item applies to proceedings commenced in the Arbitration Tribunal in respect of which the Arbitration Tribunal had begun the substantive hearing before the commencement date.

(2) On and after the commencement date -

- (a) the Arbitration Tribunal continues to have jurisdiction to deal with the proceedings to which this item applies as if the Promulgation had not been enacted; and
- (b) the Trade Disputes Act (Cap 97) as in force immediately before the transfer day continues to have effect in relation to the Arbitration Tribunal's exercise of its jurisdiction in relation to the proceedings.

(3) This regulation ceases to have effect after the completion date.

Terms and conditions of appointment of members of the Arbitration Tribunal

61.-(1) The Permanent Arbitrator and other members of the Arbitration Tribunal continue to hold office as members of that tribunal, on and after the commencement date.

(2) Sub regulation (1) ceases to have effect after the completion date.

Revocation of regulations

62. Subject to section **265** of the Promulgation and Part 13 of these Regulations, the following Regulations are revoked -

- (a) Employment Regulations(eg Regulations 1, 2 6 8)
- (b) Employment (Application) Order
- (c) Employment (Exclusion) Order
- (d) Employment (Medical Treatment) Regulations
- (e) Trade Disputes Regulations
- (f) Trade Disputes (Procedure Agreement) Order
- (g) Trade Unions Regulations
- (h) Trade Unions (Accounts) Regulations
- (i) Trade Unions (Deduction of Union Dues) Regulations, 1991 (LN 59/91)
- (j) Wages Council Regulations
- (k) Wages Council (Meetings and Procedures) Rules

- (1) All orders made under the repealed Acts pursuant to section **265** of the Promulgation

DATED this day of 2008.

.....

Lekh Ram Vayeshnoi

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

SCHEDULE 1

FORMS

FORM 1

REFERRAL OF AN EMPLOYMENT GRIEVANCE TO MEDIATION

[Section 200(1)(a), *Employment Relations Promulgation 2007 and Regulation 3(1)*]

<p><u>Worker details</u></p> <p>Name</p> <p>Address.....</p> <p>Phone number/Mobile Number.....</p> <p>E-mail Address.....</p> <p>Occupation</p> <p>Membership of trade union (Yes/No)</p> <p>Has this grievance been reported by your trade union? (Yes/No).....</p>
--

<p><u>Employer details</u></p> <p>Name of employer</p> <p>Contact person (preferably someone who has been involved in the internal grievance procedure)</p> <p>Type of business.....</p> <p>Address:</p> <p>Phone number/Mobile:</p> <p>E-Mail Address.....</p> <p>Fax Number.....</p>

<p><u>Details of employment grievance (the problem)</u></p> <p>Please explain what caused your problem:</p>
--

.....
.....

Note: If the employment grievance or problem relates to a dismissal, please attach a copy of the employer's statement that sets out the reasons for the dismissal. An employer is required to provide this statement under Section **114** of the Promulgation.

I declare that all internal grievance procedures, as applicable, have been exhausted in accordance with Sections **110** and **111**, including Schedule **4** of the *Employment Relations Promulgation 2007*.

I now wish to refer this matter to mediation.

.....
Name of worker

.....
Signed

.....
Date

Note

- An employment grievance must be raised with the employer within 6 months of the relevant issue arising.
- If the grievance is not raised within this period and the employer does not agree to extend the period, the worker may apply to the Tribunal for an extension of this period. (See Section **111** of the Promulgation).
- A copy of this form must be sent to the employer to which the employment grievance relates.
- **Case Number:.....(to be filled by the Mediation Services)**

FORM 2

NOTICE TO ATTEND MEDIATION

[Section **201** *Employment Relations Promulgation 2007 and Regulation 4(2)*]

(Case Number:.....)

To the parties

Worker..... Employer.....

Trade Union.....

The Mediator appointed to mediate your case is.....

You will be required to attend:

- 1. Your preliminary conference (if applicable) on (date/time and place)-----
- 2. Your first mediation session on (date/time and place) -----

The matter that will be mediated on is an employment grievance / employment dispute
[*cross out the one that is inapplicable*]

The issues that will be mediated on (if possible to state) include:

.....
.....

If you fail to appear at mediation on this date without reasonable excuse, you commit an offence under Section **201** of the Promulgation and may have to pay a fine of up to \$2,000.

If there is a good reason why you cannot attend the mediation on the above date, please advise the Mediation Services at least 7 working days before the mediation, and the Mediation Services will consider your request. You will be notified if there is any change to the above date.

.....
Signature of the appointed Mediator

.....
Name of the appointed Mediator

.....
Date

FORM 3

CERTIFICATE OF MEDIATION

[Regulation 10(4), *Employment Relations (Administration) Regulations 2007*]

(Case Number:.....)

This is to certify that(insert name of worker or trade union)
and(insert name of employer) attended the
Mediation Services on(insert date(s)) to resolve an employment
.....(insert grievance or dispute, as applicable).

This matter was [cross out as applicable]-

- settled at the Mediation Services on or
- referred to the Employment Relations Tribunal on.....

.....
Name of Appointed Mediator

.....
Signature of Appointed Mediator

.....
Date of Certificate

Note

- A copy of the Certificate must not contain confidential material arising from the mediation.
- A copy of the Certificate must be served on the parties involved in the mediation.
- The Mediator must file the original of the Certificate with the Mediation Services.

]

FORM 4

CERTIFICATE OF DECLARATION AND REFERRAL OF EMPLOYMENT GRIEVANCE OR EMPLOYMENT DISPUTE TO EMPLOYMENT TRIBUNAL

[Section 194(5), *Employment Relations Promulgation 2007 and Regulation 11*]

Case Number:	
I hereby declare that the employment grievance(s)/employment dispute(s) outlined below has/have not been resolved in mediation held on, and, in accordance with Section 194(5) of the Promulgation, I hereby refer the employment grievance(s)/employment dispute(s) to the Employment Relations Tribunal.	
Outline of unsettled employment grievance(s)/employment dispute(s):	
1.....	
2.....	
3.....	
4.....	
5.....	
6.....	
7.....	
----- Name of Appointed Mediator	----- Date
----- Signature of Appointed Mediator	

Note:

- Please attach corresponding Form 1 or Form 6
- Additional information can be also attached
- A copy of this Form and Form 1 to be sent to the Permanent Secretary
- A copy of this Form to be sent to the Mediation Services.

FORM 5

REPORT OF A DISPUTE TO THE PERMANENT SECRETARY

[Section 169(2), *Employment Relations Promulgation 2007 and Regulation 12(1)*]

Trade Union details

Name

Registered Address.....

Phone number/Mobile Number.....

E-mail Address.....

Worker(s) details

Name of worker represented.....

Occupation of Worker

Is the worker a member of the trade union mentioned above (Yes/No)

Has this issue been reported by the worker as a grievance (Yes/No).....

Employer details

Name of employer

Contact person (preferably someone who has been involved in the internal settlement of dispute or grievance procedure)

.....

Type of business.....

Address:

Phone number/Mobile:

E-Mail Address.....

Fax Number.....

Details of dispute (the problem)

Please explain what the dispute is about or list the matters in dispute:

.....

.....
.....

Note: If the dispute relates to a dismissal, please attach a copy of the employer's statement that sets out the reasons for the dismissal. An employer is required to provide this statement under Section **114** of the Promulgation.

I declare that all internal procedures for settling disputes, as applicable, have been exhausted in accordance with Section **168** and Schedule 6 of the *Employment Relations Promulgation 2007*.

I now wish to report this matter to the Permanent Secretary.

.....
Name of Trade Union/Name of Employer (delete whichever applicable)

.....
**Signature of the Trade Union's General Secretary/
Signature of Employer (delete whichever applicable)**

.....
Date

Note

- A report of a dispute is only entertained by the Permanent Secretary if it is within 6 months from the date on which the dispute arose "except where the delay to report was caused by mistake or other good cause" (Sections 170(6) and 170(9) of the Promulgation).
- The party reporting the dispute must, within 3 days, provide a copy of this Form and any attachment(s) to each party to the dispute.
- Additional attachment(s) to this Form can also be forwarded if the reporting party believes that the information is necessary to facilitate the decision of the Permanent Secretary e.g. copy of relevant collective agreement.

Case Number:.....(to be filled by the Ministry)

FORM 6

REFERRAL OF EMPLOYMENT DISPUTE TO MEDIATION SERVICES BY THE PERMANENT SECRETARY

[Section 170(4)(b), *Employment Relations Promulgation 2007 and Regulation 14(1)*]

Case Number:	
I have accepted and hereby refer the employment dispute(s) outlined below to the Mediation Services, after exercising the decision making powers vested upon me under the relevant provisions of Section 170 of the Promulgation.	
Outline of matters in employment dispute as reported by the aggrieved party:	
1.....	
2.....	
3.....	
4.....	
5.....	
6.....	
7.....	
----- Name of Permanent Secretary	----- Date
----- Signature of Permanent Secretary	Official Stamp

- Note:**
- Please attach corresponding Form 5
 - Additional information can also be attached
 - A copy of this Form to be sent to all the parties in dispute.
 - The mediation process must first be exhausted before the employment dispute is referred to the Employment Relations Tribunal (Section 170(5) of the Promulgation).

FORM 7

**REFERRAL OF EMPLOYMENT DISPUTE TO EMPLOYMENT RELATIONS TRIBUNAL
BY THE PERMANENT SECRETARY**

[Section 170(4)(a), *Employment Relations Promulgation 2007 and Regulation 15(1)*]

Case Number:	
I have accepted and hereby refer the employment dispute(s) outlined below to the Employment Relations Tribunal, after exercising the decision making powers vested upon me under the relevant provisions of Section 170 of the Promulgation.	
Outline of matters in employment dispute as reported by the aggrieved party:	
1.....	
2.....	
3.....	
4.....	
5.....	
6.....	
7.....	
----- Name of Permanent Secretary	----- Date
----- Signature of Permanent Secretary	Official Stamp

- Note:**
- Please attach corresponding Form 5
 - Additional information can also be attached
 - A copy of this Form to be sent to all the parties in dispute.

FORM 8

EMPLOYER WORKPLACE-BASED INFORMATION

[Section 45(1)(j) of the Employment Relations Promulgation 2007 and Regulation 18(2)]

<p>Employment Information</p> <p>Registered Name of Employer.....</p> <p>Trading Name (if different from above).....</p> <p>Location Address.....</p> <p>Registered Postal Address.....</p> <p>City/Town.....</p> <p>District.....</p> <p>Tikina.....</p> <p>Province.....</p> <p>Contact Details.....</p> <ul style="list-style-type: none">▪ Phone.....▪ Fax.....▪ Email..... <p>Type of Ownership.....</p> <ul style="list-style-type: none">▪ Private.....▪ Public.....▪ State Owned Enterprise▪ Multinational▪ Others <p>Parent Company/Holding Group</p> <ul style="list-style-type: none">▪ Name of Parent Company/Holding Group▪ Physical Address of Parent Company/Holding <p>FNPF Reference Number</p> <p>Nature of Business (Type e.g. Paint retailers)</p> <p>Major Type of Work Undertaken</p> <p>Type of Service</p> <ul style="list-style-type: none">▪ Essential▪ Non-Essential▪ Mixed <p>Industry Classification (By ISIC Standard)</p> <p>Name of Registered (or Recognized) Trade Unions</p> <p>Number of Union Members</p> <p>Workers Profile</p> <ul style="list-style-type: none">▪ By size<ul style="list-style-type: none">Less than 10 workers10 to 20 workers21 to 50 workers51 to 100 workersMore than 100 workers▪ Number of People With Disability (PWD) Status▪ By Gender<ul style="list-style-type: none">Number of Male Workers<ul style="list-style-type: none">PermanentCasualOthersNumber of Female Workers<ul style="list-style-type: none">PermanentCasualOthers▪ By Residency: <i>If Expatriate –country of origin</i>

- nationality

Local

Expatriate

**China
Australia
New Zealand
United States of America
Canada
South America
Europe
Korea
Japan
India
Pakistan
Sri Lanka
Philippines
Ghana
Nigeria
United Kingdom
Russia
Tonga
Samoa
Cook Island
Papua New Guinea
Others**

▪ **By Age Groups**

**<15 years
>=15 and <18
>=18 and <21
>=21 and <55
>=55 and <60
>=60 and <70
>=70 years**

▪ **By Ethnicity**

**Fijian & Rotuma origin
Indian origin
European origin
Others
Part European origin
Chinese origin
Melanesian origin
Polynesian origin
Micronesian origin
Others**

FORM 9

APPLICATION FOR REGISTRATION AS A TRADE UNION

[Section 119 *Employment Relations Promulgation 2007 and Regulation 21*]

Name of trade union or proposed trade union
Physical location of proposed registered office
Postal address of office

We, the undersigned members, have been authorised by the trade union to make this application on its behalf by a General Meeting held at

[insert address of meeting place].....

on [insert date]

We declare that none of us is a member of any other trade union.

We have attached the following documents, as required by Section 119 of the *Employment Relations Promulgation 2007*:

- (a) A statement of the names of the officers of the trade union, including their titles, addresses, ages and occupations;
- (b) Four copies of the rules of the trade union, authenticated by the president and the secretary; and
- (c) A certified copy of the relevant extract from the minutes of the General Meeting.

Signed by the following members on [insert date].....:

Name of Member 1

Name of Member 2

.....
Address

.....
Address

.....
Phone number

.....
Phone number

.....
Occupation

.....
Occupation

.....
Signed

.....
Signed

Name of Member 3

Name of Member 4

.....
Address

.....
Phone number

.....
Occupation

.....
Signed

Name of Member 5

.....
Address

.....
Phone number

.....
Occupation

.....
Signed

Name of Member 7

.....
Address

.....
Phone number

.....
Occupation

.....
Signed

.....
Address

.....
Phone number

.....
Occupation

.....
Signed

Name of Member 6

.....
Address

.....
Phone number

.....
Occupation

.....
Signed

Notes on members and officers:

- No member may belong to more than one trade union.
- "Officer" includes any member of the Executive Committee and any officer of a branch.
- *Additional names of members may be submitted.*
- Only a citizen of the Fiji Islands may be an officer.
- An undischarged bankrupt may not be an officer.
- Officers must have worked for a period of at least 6 months in an industry, trade or occupation with which the union is concerned. This requirement does not apply to the secretary and the treasurer.
- If a person has been convicted of a criminal offence that carries a penalty of 6 months imprisonment or longer, that person cannot be an officer for 3 years after the date of conviction.

Notes on registration:

- The Registrar may refuse to register a trade union for the reasons set out in Section **125** of the *Employment Relations Promulgation 2007*.
- The trade union must notify the Registrar of any change to the physical location or the postal address of the registered office.

FORM 10

CERTIFICATE OF REGISTRATION OF A TRADE UNION

[Section **126** *Employment Relations Promulgation 2007 and Regulation 22*]

Registration No.....

I, the Registrar of Trade Unions, certify that the [insert name of trade union] was registered as a trade union under Section **120** of the *Employment Relations Promulgation 2007* on [insert date].

This certificate, unless it has been proven to have been cancelled or withdrawn, is conclusive evidence that the trade union is a duly registered trade union.

.....
Name of the Registrar of Trade Unions

.....
Signature of the Registrar of Trade Unions

.....
Official Stamp

.....
Dated

FORM 11

CERTIFICATE OF RESULT OF BALLOT FOR AMALGAMATION

[Section 123 *Employment Relations Promulgation 2007 and Regulation 28(2)*]

Name of trade union
Location of registered office
Postal address of registered office

We declare that the requirements of the *Employment Relations Promulgation 2007* and its regulations have been complied with in relation to secret ballots for the amalgamation of registered trade unions.

Results

- The total number of members entitled to vote was.....
- Number of papers issued.....
- Number of papers in the ballot box.....
- Number of votes in favour of amalgamation.....
- Number of votes against amalgamation.....
- Number of informal/invalid votes.....

Final result: [strike out as applicable]

Amalgamation authorised / not authorised

.....
Signed by Official 1
(union officer)

.....
Signed by Official 2
(member representative)

.....
Name

.....
Name

.....
Position

.....
Occupation

Date.....

Note

- A signed copy of this certificate must be posted in the registered office of the trade union and in every branch office.

- A signed copy of this certificate must be sent to the Registrar together with the notice of amalgamation.

FORM 12

NOTICE OF TRADE UNION AMALGAMATION

[Regulation 28(3), *Employment Relation (Administration) Regulations 2007*]

To the Registrar

We, the undersigned, apply under Section 123 of the *Employment Relations Promulgation 2007* for amalgamation of the following registered trade unions:

- 1
- 2
- 3

The name of the new union formed by this amalgamation will be

.....

Each trade union which is party to this application has conducted a secret ballot amongst its members as prescribed by Section **123**(2) of the *Employment Relations Promulgation 2007*.

Three copies of the proposed rules of the new union are attached to this form.

Signed on [insert date]

TRADE UNION 1: [insert name]

.....
Signed by Chairperson

.....
Name

.....
Signed by Secretary

.....
Name

.....
Signed by Treasurer

.....
Name

.....
Signed by Member

.....
Name

.....
Signed by Member

.....
Name

.....
Signed by Member

.....
Name

.....
Signed by Member

.....
Name

TRADE UNION 2: [insert name]

.....
Signed by Chairperson

.....
Name

.....
Signed by Treasurer

.....
Name

.....
Signed by Member

.....
Name

.....
Signed by Member

.....
Name

.....
Signed by Secretary

.....
Name

.....
Signed by Member

.....
Name

.....
Signed by Member

.....
Name

TRADE UNION 3: [insert name]

.....
Signed by Chairperson

.....
Name

.....
Signed by Treasurer

.....
Name

.....
Signed by Member

.....
Name

.....
Signed by Member

.....
Signed by Secretary

.....
Name

.....
Signed by Member

.....
Name

.....
Signed by Member

.....
Name

.....
Name

FORM 13

ANNUAL RETURN

[Section 129(2) *Employment Relations Promulgation 2007 and Regulation 31*]

Annual return of the [insert name of trade union] for the year ended 31 December [insert year].

General Information

1. Location of registered office.....
2. Postal address.....
3. Does the trade union have any branches? If yes, list each branch's location and number of members.

	Branch name	Location	No. of members
1			
2			
...			
...			

4. In what trade, industry or occupation are the members of the union mostly employed?

.....

5. Total number of voting members at the end of the calendar year for which this annual return is prepared

.....

Details of the Executive Committee and Officers

	Title of officer	Name	Date of appointment
1	President		
2	Secretary		
3	Treasurer		
4		
5		
6		

7		

[**Note:** Insert more rows in table as required]

Income and Expenditure Account for the Year Ended 31 December [insert year]

[Attach the income and expenditure account.]

Balance Sheet as at 31 December [insert year]

[Attach the income and expenditure account.]

Declaration of Officer Bearers

We declare that:

- None of the officers of the trade union has been convicted of any crime involving fraud or dishonesty during the past three years;
- None of the officers of the trade union is an officer of any other trade union; and
- All of the officers of the trade union (except the Secretary and Treasurer) are currently engaged in the industry or occupation of..... with which this trade union is directly concerned.

We declare that the information contained in this Annual Report is true and correct and in accordance with the *Employment Relations Promulgation 2007*.

.....
Signed by President Date

.....
Signed by Treasurer Date

.....
Signed by Secretary Date

Auditors' Report

We declare that we:

- Have had access to all the books and accounts of the [insert name of trade union](including its branches);
- Have examined the Annual Return and verified the related accounts and documents; and
- Find the Annual Return to be correct and in accordance with law.

.....
Signed by First Auditor Date

Address

Profession

.....
Signed by Second Auditor Date

Address.....

Profession.....

Date of completion of audit.....

Notes

- The return must be accompanied by four copies of the rules of the trade union in force at the end of the calendar year in question.
- If you make or cause to be made a false entry or omission to annual return, you commit an offence under the **Employment Relations Promulgation 2007** and may be liable for a fine of up to \$2000 and/or a term of up to 6 months imprisonment.

FORM 14

NOTICE OF SECRET BALLOT

[Section 175(2) of the Employment Relations Promulgation 2007 and Regulation 33]

To the Registrar of Trade Unions

The..... gives notice to hold a
(name of Trade Union)

secret ballot seeking mandate for strike action against

.....
(name of Employer)

Date of ballot:.....

Time of ballot:.....

Place of ballot:.....

Issues are the following:
(list the details as they would appear in the ballot paper)

.....
(signed on behalf of the Union)

.....
(date of notice)

.....
(print name and position in the Union)

(The Regulation requires that a copy of this notice must be sent to the employer/employers to whom the secret ballot relates at the same time as the notice is sent to the Registrar)

FORM 15

SECRET BALLOT PAPER FOR PROPOSED STRIKE ACTION

[Section 175(3) of the Employment Relations Promulgation 2007 and Regulation 34]

Name of union conducting secret ballot

.....

Record your vote by marking a cross (X) or a tick (✓) in the box next to your preferred option.

Mark only one square.

Do not sign your name.

Issues	STRIKE ACTION	
	YES (✓)	NO(X)

Issues	STRIKE ACTION	
	YES (✓)	NO(X)

FORM 16

CERTIFICATE OF RESULT OF STRIKE BALLOT

[Section 175(3) Employment Relations Promulgation 2007 and Regulation 36]

Name of trade union
Location of registered office
Postal address of registered office

We declare that the requirements of the Employment Relations Promulgation 2007 and its regulations have been complied with in relation to secret ballots for strike action in accordance with Section 175 of the Promulgation.

Results

- The total number of members entitled to vote was.....
- Number of papers issued.....
- Number of papers in the ballot box.....
- Number of votes in favour of strike action.....
- Number of votes against strike action.....
- Number of informal or invalid votes.....

Final result: [strike out as applicable]

Strike action authorised / not authorised

.....
Signed by Official 1
(union returning officer)

.....
Signed by Official 2
(member representative)

.....
Name

.....
Name

.....
Position

.....
Occupation

Date.....

- **Note:** A signed copy of this certificate must be sent to the Registrar as soon as possible.

FORM 17

DEMAND NOTICE

[Section 19(4) Employment Relations Promulgation 2007 and Regulation 47]

Demand Notice No.....

Under the provisions of Section **19**(4) of the Promulgation and Regulation 47, I
[.....insert name of enforcer] a Labour Officer or Labour Inspector appointed
under the provisions of Section **16** of the Promulgation, do require you,

Name of Employer:

Address of Employer:

To produce the following original documents ***within 14 days with effect from***
[insert date/time/ ***at***

.....
.....
.....
.....

Failing to produce such documents at the date, time and place specified above is an
offence under the Promulgation and the Employment Relations (Administration)
Regulations 2007, punishable on conviction by a fine not exceeding \$20,000.

Signed: Date:
[Labour Inspector/Labour Officer]

.....
Name of the Labour Officer/Labour Inspector Position

FORM 18

FIXED PENALTY NOTICE

[Section 263(3) of the Employment Relations Promulgation 2007 and Regulation 48]

Part A

Notice number.....

Name of manager / trade union official / worker:	Name of relevant employer or trade union:
--	---

1. At [insert time] on [insert day of week and date] at [insert place], it is alleged that you have been found committing an offence against [insert relevant details or Section of Promulgation or Regulations].

[insert brief details].....
.....
.....
.....

2. If you do not wish for the matter to be determined in a tribunal hearing, you may complete Part B attached to this notice and forward that form together with the prescribed sum by way of penalty to the Ministry of Labour and Industrial Relations before insert date ***within 21 days***.

3. The penalty for the alleged offence is \$

4. You have the right to decline to proceed in the manner described in clause 2 above and to allow the matter to be determined in a tribunal hearing:-

- (i) if you wish to contest whether the offence alleged was actually committed;
- (ii) if you wish to submit to the tribunal matters in extenuation of the penalty; or
- (iii) or any other reason, in which event you need not reply or take further action in respect of this notice, and in such case court proceedings will be issued against you in due course.

5. As well as paying the penalty connected with this offence, you are required to remedy your non-compliance with the relevant provisions of the Employment Relations Promulgation by

.....

Dated

.....

Name of Labour Officer or Labour Inspector

Part B

Notice number.....

Surname	Given names
Registered company name / name of registered trade union	
Trading as:	
Residential or business address:	
Date of offence	Where the offence was committed
Penalty \$	

I attach a cheque or money order of \$

Signed.....

Name

Date

FORM 20

RECORD OF STRIKE OR LOCKOUT

[Section 183 Employment Relations Promulgation 2007 and Regulation 52]

1. Name of business

2. Main industry of your business.....

3. Type of work reduction

[if the type of work reduction changed during a continuous period of work interruption, tick each type]:

- Complete strike: total withdrawal of labour by some or all workers
- Partial strike: reduction in type of work; eg, "go slow", work to rule, overtime ban, ban on particular types of work or similar
- Lockout

4. Place of strike or lockout [*nearest city or town*]

5. Number of workers involved in the strike/lockout

[include non-striking workers suspended because of the availability of normal work during a strike/lockout]

6. Describe the group of workers involved according to their membership of a union, occupation or other relevant characteristic

.....
.....

Do the workers involved include any— [*please tick all that apply*]:

- part-time workers
- shift workers
- Workers whose normal span of hours includes weekends

7. Start time of strike/lockoutam/pm on
[day] [month] [year]

Finish time of strike/lockout am/pm on
[day] [month] [year]

8. On how many of these days was work affected by the strike/lockout?

.....

Please answer questions 9 and 10 if the strike or lockout included

- (a) a total withdrawal of labour by some or all of the workers; or
- (b) a lockout; or
- (c) wages or salaries deducted by you for the duration of the strike or lockout.

Otherwise go straight to question 11.

9. How many hours were lost in total by all workers during the strike/lockout? Include all hours normally worked at all times including regular overtime that would have been worked

.....
 [For example, total time lost = duration of strike/lockout (hrs) x workers involved. Include all hours normally worked at all times, including regular overtime and penal time that would have been worked.]

10. What was the total amount of wages and salaries lost by all workers during the total time of the strike/lockout?

\$.....

[Include all wages and salary normally earned at all times including regular overtime and penal time that would have been paid.]

11. What were the main reasons for the strike/lockout ? [tick all that apply]

- dispute over whether the parties have acted in good faith
- dispute arising from negotiation of coverage of employment agreement
- dispute over wage provisions of an employment agreement
- dispute over a safety or health agreement
- dispute over the way the employment agreement is interpreted or applied
- dispute over alleged breach of agreement
- dispute over hours of work provisions of employment agreement
- dispute over redundancy provisions of employment agreement
- dispute over leave provisions of employment agreement
- dispute over overtime/shift provisions of employment agreement
- other [*please describe*]

12. How was this underlying dispute finally resolved? [tick one only]

- not resolved
- negotiations between employer and workers or their representatives
- mediation services provided by the Ministry of Labour and Industrial Relations
- a determination / order of the Employment Relations Tribunal

a decision of the Employment Court or other third party

other [please describe]

13. What was the method by which normal work was finally resumed? [tick one only]

without negotiations or other action

negotiations between employer and workers or their representatives

mediation services provided by the Ministry of Labour and Industrial Relations

a determination / order of the Employment Relations Tribunal

a decision of the Employment Relations Court

others [please describe]

14. Details of person completing this form

Name

Position

Business address

.....

.....

Telephone number

Fax number

Email address

15. Please sign here:

..... Date:

Notes

- A strike or lockout is an industrial action, whether it is lawful or not, that results in a total or partial reduction of labour for a continuous period of time.
- Complete one form for each strike or lockout.
- If the strike or lockout was in more than one location, complete one form for each location.
- Under the **Employment Relations Promulgation 2007**, you are obliged to keep a record of all of this information whenever there is a strike or lockout.
- When you have completed this form, please send a copy within one month after the end of each strike or lockout to the Ministry of Labour & Industrial Relations.

- The meanings of “strike” and “lockout” under Section 4 of the **Employment Relations Promulgation 2007** are set out below:

A “**strike**” means the act of a number of workers who are or have been in the employment of the same employer or different employers—

- (a) in discontinuing their employment either wholly or partially, or in reducing the normal performance of it;
- (b) in breaching their employment contract which results in a reduction or discontinuance in the work of the employer;
- (c) in refusing or failing after such discontinuance to resume or return to their employment;
- (d) in refusing or failing to accept engagement for work in which the workers are usually employed; or
- (e) in reducing their normal output or their normal rate of work with the intention of disrupting the work;

if the act is due to a combination, agreement, common understanding or concerted action, expressed or implied, made or entered into by the workers; but does not include a union meeting agreed to between a trade union and the employer.

A “**lockout**” means the act of an employer—

- (a) in closing the employer’s place of business, or suspending or discontinuing the employer’s business;
- (b) in discontinuing the employment of workers employed by the employer in consequence of a dispute;
- (c) in breaking any of the employer’s employment contract; or
- (d) in refusing or failing to engage workers for any work for which the employer usually employs the worker;

with a view of compelling the workers to accept terms or conditions of or affecting employment.

SCHEDULE 2

FEES

1.0 In this Schedule 'ER' means Employment Relations; 'PI' means Productivity Improvement; and 'LMC' means Labour-Management Consultation and Cooperation Committees.

2.0 Administration of LMC -

Registration of a LMC	-	\$150 per LMC
Training of LMC committee members	-	as prescribed below.

3.0 Administration of trade unions -

Registration of trade union	-	\$1,000 per union
Registration of new rules and/or alteration of constitution	-	\$50
Public Inspection fee for Union Constitutions, Rules etc	-	\$5
Amalgamation registration fee		-\$10
Photocopying lost documents		-\$0.20/page

4.0 Mediation Services –

All employment relations mediation service conducted by the Chief Mediator or Mediators of the Mediation Services constituted under Part 20 of the Promulgation are free of charge, with the exception of the following services, which may be conducted by the Mediators at the following basic fees specified below (these fees are part of the total charge rates for respective services as prescribed under Clause 8) –

commercial mediation service	-	\$150 per hour
trade mediation service	-	\$150 per hour
consumer mediation service	-	\$90 per hour
community mediation service	-	\$90 per hour
family mediation service	-	\$90 per hour
counselling service	-	\$90 per hour
other mediation service	-	\$90 per hour

5.0 Training Courses, Lectures and other ER or PI Consultancy Services

conducting ER training course or lecture	-	\$110 per hour
conducting PI training course or lecture	-	\$110 per hour
conducting LMC training course or lecture	-	\$110 per hour
providing ER consultancy	-	\$110/hour
providing ER research and development service	-	\$110/hour
providing PI consultancy	-	\$110/hour
providing PI research and development service	-	\$110/hour
providing any other consultancy or training service	-	\$110/hour

6.0 Selling of ER and PI information and publications

selling ER Code of Good Faith	-	\$0.40 per page
selling ER Code of Ethics for Mediators	-	\$0.40 per page
selling ER National Policy on Sexual Harassment	-	\$0.40 per page
selling ER Code on HIV/AIDS Prevention in Workplaces	-	\$0.40 per page
selling ER Advisory Guides	-	\$0.40 per page
selling ER Guidance Notes	-	\$0.40 per page

selling Wage & Time Record	- \$0.50 per page
selling ER Information Brochures/Posters	- Free
selling ER Information Pamphlets	- Free
selling ER Newsletter	- Free
selling ER Mediation Pamphlets, brochures, booklets etc	- \$0.20/page
selling LMC Code of Practice	- \$0.40 per page
selling LMC Advisory Guide	- \$0.40 per page
selling LMC Guidance Notes	- \$0.40 per page
selling LMC Information Brochures	- Free
selling LMC Information Pamphlets	- Free
selling LMC Newsletter	- Free
selling any other publication	- \$0.40 per page
accessing & supplying Ministry's information	- \$0.50 per page

7.0 Administration Fees

For the purposes of determining a total charge for any of the services specified above, any part of an hour shall be regarded as an hour.

Where applicable, administration cost may be added to any of the charges under this Schedule where applicable.

8.0 Officers Overtime Charges and Payment

▪ After Normal Working Hours of Service

For the purposes of services listed above which are been undertaken by Ministry's officers, normal working hours are from 8.00am to 4.30pm from Monday to Thursday and 8.00am to 4.00pm on Friday.

After normal working hours mean hours of work (including travelling time to and from the officer's home or office whichever is applicable) outside the normal working hours specified above from Monday to Friday inclusive, in addition to Saturday, Sunday or any other Public Holiday or Special Public Holiday.

▪ Service conducted after Normal Working Hours

Where the employer or any person specifically requests that a user-pay service prescribed under this Schedule be carried out after normal working hours, the fee to be charged in respect to any service so made shall be double the fee otherwise applicable and, in addition, the employer or person shall provide for the officer his or her travelling, meal and accommodation costs where applicable including the officer's overtime pay in accordance with regulation below.

▪ Officers Overtime Payment

The officer's overtime shall be calculated on the double-time basis. That is, by multiplying by two (2) the current officer's equivalent hourly rate of pay with the number of 'after normal working hours' the officer has worked, including travelling time to and from home or office whichever is applicable. Any part of an hour shall be regarded as an hour.

▪ **Training Courses, Lectures and other Services**

For conducting a training course or lecture, the charge rate includes the basic fee as specified above, plus training material cost, travelling, meals and accommodation costs where applicable.

For providing a consultancy service or research and development service, the charge rate includes the basic fee as specified above, plus travelling, meals and accommodation costs where applicable.

For providing any other consultancy or training service, the charge rate includes the basic fee as specified above, plus training material cost, travelling, meals and accommodation costs where applicable.

The time charged for any training, research & development and consultancy service includes the actual time taken for the particular service provided plus travelling time.

For the hiring of any Ministry's Training Centre or Conference Centre (inclusive of its training equipment) the charge rate is \$50.00 per hour or part thereof.

For the purposes of determining a total charge for any of the services specified above, any part of an hour shall be regarded as an hour.

All fees and charges under this Schedule exclude Value Added Tax (VAT).

SCHEDULE 3

Wage Councils

The following are the Wages Councils referred to in Regulation 19(4):

1. Building and Civil and Electrical Engineering Trades
2. Garment Industry
3. Hotel and Catering Trades
4. Manufacturing Industry
5. Mining and Quarrying Industry
6. Printing Trades
7. Road Transport Industry
8. Sawmilling and Logging industry
9. Security Services
10. Wholesale and Retail Trades