



Update—December 2012

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Please note: copies of the Monthly Employer Updates are also available on the TasBuild webpage at www.tasbuild.com.au

Entitlement Statistics for November 2012:

- Total entitlements paid: 56
- Total value of entitlements paid: \$416,905.99
- Average weekly rate paid for all entitlements: \$1,0487.20
- Average weekly rates paid to specific trades:

Boilermaker:	\$1,040.70
Bricklayer:	\$678.25
Carpenter:	\$1,094.81
Concreter:	\$857.28
Electrician:	\$1107.32
Glazier:	\$748.98
Labourer:	\$1,053.65
Landscaper:	\$891.86
Plant operator:	\$966.38
Plasterer:	\$1,140.00
Plumber:	\$1,127.40
Refrig Mech:	\$2,334.72
Roadmaker:	\$1,492.40
Sheet Metal Wkr:	\$1,282.88
Other:	N/A

The weekly rates are an average of the rates actually paid by TasBuild to employees taking an entitlement during the subject month. The weekly rates paid have been calculated in accordance with the requirements of the Act and the Rules of the Fund. In general terms the rates represent the ordinary weekly amount payable to the employee and do not include site specific or other various compensatory allowances.

The Year In Review.

As we close in on the end of what can best be described as a year of significant contrast, I can report that since 01 July 2012 TasBuild Limited has provided 311 employees with long service entitlements. The total value of these entitlements was \$2,469,670.02, on average each employee received around \$7,941.07. Unfortunately of the 311 entitlements paid out, 108 of them were paid to employees leaving the industry. Hopefully the Premier's recently announced 'Tasmanian Jobs Package' will have an impact in this area and see the sector return to growth.

Despite a shaky start to the year in the financial markets things appear to have steadied and investment returns are now positive, albeit at a modest level, they are headed in the right direction.

The TasBuild Offices will be closed from 1.00 p.m. on Friday the 21st of December 2012 and re-open on Tuesday the 2nd of January 2013.

The Chairman, Board Members, CEO and Staff would like to extend their appreciation for your support during the past year and to wish you, your staff and your families a very safe, healthy and happy Christmas and a prosperous New Year.

Merry Christmas everyone.

Chris Atkins CEO

Who is an employee?

The Act defines an "employee" as a "person engaged in the construction industry". The Act defines the "construction industry" as "any industry involved in any construction described in Division C or Division E of the Standard Industrial Classification."

Whilst the Rules and the Act provides the technical and legal definitions to be used to determine who is and is not an employee, in very simple terms an "employee" is a person who is generally employed to work on a building or on a building site carrying out "construction work". This work includes erection, installation, reconstruction, re-erection, renovation, alteration, demolition, maintenance and repairs. Under certain conditions persons working off-site or transporting goods or materials to sites may also be employees for the purposes of the Act and Rules.

It doesn't matter if an employee is an apprentice, tradesman or labourer, employed on a full time, part time or casual basis or paid wages or a salary; if they come within the scope of the above definition they need to be included on your Employer Return.

Who is an employee? continued

The Rules refine the definition of an “**employee**” to be a person engaged: (i) under a contract of service; (ii) under a contract that is wholly or principally for the labour of the person; (iii) under a contract, whether or not a contract of employment, by any labour hire agency or group training scheme.

A person employed under a “contract of service” as described in item (i) above, is your typically directly employed person. As an employer you are required to record the number of days and the amount of “ordinary pay” these employees receive, on the Employer Return you submit to TasBuild.

The persons described in item (ii) of the definition of “Employee” in industry terms can be described as a “**labour only sub-contractor**”. Typically these persons are **sole traders** and contract to an employer to provide their **labour** on an hourly rate basis. In most cases they do not provide materials or major tools or plant and equipment to undertake the work, or where they do the value of these inputs is less than the value of their labour component.

It should be noted that there are a number of common law tests that can be applied to determine whether a person is being employed “under a contract that is wholly or principally for the labour of the person”. Where a person is being employed on that basis the employer must include them on their Employer Return.

Finally item (iii) provides that an employee of a labour hire company or group training scheme is also an employee when employed to carry out any work in the “Construction Industry”.

In the above circumstance the obligation to advise TasBuild as to the days worked and the period pay on the Employer Return, rests with the labour hire agency or the group training company.

Please contact the TasBuild Office if you require clarification on any of these matters.

Payments by Electronic Funds Transfer (EFT).

If you’re one of the many employers simplifying the payment of your contributions to TasBuild via EFT, it is strongly recommended that you include your Employer Number as part of the information that accompanies this payment.

Where you use your Employer Number in this situation it diminishes the possibility that your payment is credited to the wrong account and will save TasBuild staff time in identifying the actual employer making the payment. Thanks for your assistance with this matter.

Self employed workers.

Do you know that employees who start their own business are able to register with TasBuild as Self Employed persons. A Self Employed person is able to make contributions into the Fund on their behalf towards an accrual to an entitlement where an employer has previously made contributions on their behalf.

The person must be a **bona fide self employed** person, not a ‘**labour only contractor**’ and have a service record as an employee with TasBuild.

If you require additional information about Self Employed options please contact the staff at TasBuild.

The information contained in this Update is of a general nature and does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Construction Industry (Long Service) Act applies to you.