

TasBuild Update—June 2010

Volume 1, Issue 2

22 June 2010

Inside this issue:

Lodgment of Returns.

Returns - Dos and Don'ts

Court Action

Lodgment of Returns

Timely lodgment of Long Service Returns will save you money!

Employers are required to lodge their Long Service Returns with TasBuild Limited, either on a monthly or quarterly basis.

An Employer may apply to the Trustee to lodge their Returns on a quarterly basis where their monthly “Long Service Payment” is less than \$100.00 or where they employ less than four Employees.

Returns are to be lodged with TasBuild Limited within 14 days of the end of the period for which the Return relates. Where an Employer lodges their Return within 7 days of the due date period their “Long Service Charge”: will be calculated at a rate of 2% of their Employee’s “Ordinary Pay” for the subject period.

Where an Employer fails to lodge the required Return within 7 days of the due date, the Rules of the Fund provide that the “Long Service Charge” will be calculated at a rate of 2.5% of their Employee’s “Ordinary Pay” for the period.

Entitlement Statistics for May 2010:

- Total entitlements paid: **34**
- Total value of entitlements paid: **\$168,228.03**
- Average weekly rate paid for all entitlements: **\$963.32**
- Average weekly rates paid to specific trades:

Boilermaker:	\$1,066.38
Carpenter:	\$956.51
Concreter:	\$777.10
Electrician:	\$1,126.74
Glazier :	\$1,064.00
Labourer:	\$772.94
Painter:	\$928.34
Plant operator:	\$881.57
Plasterer:	\$893.38
Plumber:	\$1048.00
Sh metal worker:	\$916.34

RETURNS - Dos and Don'ts?

Legislative Provisions:

The *Construction Industry (Long Service) Act* in conjunction with the *Rules of the Construction Industry Long Service Fund*, places a legislative obligation on every Employer who employs Employees in “Relevant Employment” in “Construction Work” to lodge with TasBuild Limited a “Long Service Return”.

The legislation also provides that TasBuild Limited may take action in the Magistrates Court to enforce compliance with the legislation. Enforcement may include the issuance of Court Orders and fines.

Obviously the other side of this matter is that where an Employer complies with the legislative obligations and time frames, they

benefit from the “Long Service Charge” being calculated at a subsidized rate.

Required Information:

“Maximum Working Days:”

This will appear as “Maximum Days” for Employers who complete their Returns online.

This is a notation most of you would have seen on your Employer Returns, it is a very important piece of information which we use to calculate an Employee’s entitlement to Long Service.

TasBuild Limited base their entitlement calculation on 260 days of work per year. Where an Employee is employed on a full time basis the number of *ordinary time days* they work in “Relevant Employ-

ment” will be 260 days.

An Employee is in “Relevant Employment” where they are at work or on annual leave, public holidays, personal leave, sick leave, workers compensation, jury service, or as a witness before a court.

As a guide an Employee’s “Paid days” in any period can not be greater than the “Maximum Working Days” reported on the Employer Return.

Paid Days:

As the name suggests are the actual days an Employer pays an Employee, subject to the above information, during the period to which the Return relates.

Despite various leave types being included in the “Maximum Working Days” calculation, *leave without*

RETURNS - *Dos and Don'ts?*

Continued from page 1

pay is excluded.

Period Pay:

The May edition of the TasBuild Update provided an extensive overview of "Ordinary Pay".

Period Pay is the amount of "Ordinary Pay" an Employee receives during the period to which the Return relates.

Having said that there are two methods Employers used to calculate "Period Pay", these are as follows:

A number of Employers calculate an Employees daily "Ordinary Pay" rate, then simply multiply that rate by the number of "days" the Employee is employed in "Relevant Employment" during the subject period.

For example where an Employee is a full time Employee and has a daily "Ordinary Pay" rate of \$163.00 the Employer would complete their May 2010 Monthly Return as follows:

Maximum Working Days = 21 days

Paid Days = 21 Days

Daily Ordinary Pay = \$163.00

Period Pay = Paid Days x Daily Ordinary Pay

Period Pay = 21 x \$163.00

Total Period Pay = \$3,423.00 to be entered on Employer Return.

The second method used by Employers to calculate the Period Pay is based on the weekly "Ordinary Pay" rate. Employers who use this method simply multiply the number of pays that fall in the period and multiply the weekly "Ordinary Pay" rate by

that figure and report that amount as the "Period Pay".

Whilst this method is not as accurate as the daily "Ordinary Pay" rate method, over the period of a whole year the results balance themselves out.

Tasbuild is happy to accept either of the above methods when Employers are calculating "Period Pay".

Example (based on May 2010 Return):

Number of pays paid in May 2010 = 4

Weekly Ordinary Pay = \$800

Period Pay = Weekly Ordinary Pay x Number of pays

Period Pay = \$820 x 4

Total Period Pay = \$3280 to be entered on Employer Return

Termination of Employees from Employer Returns:

If you complete your Employer Returns online you can only terminate an Employee in the month / quarter which the Return relates. Where an Employee has terminated prior to the Return you are working on you will be required to email termination information through to TasBuild.

Employers who complete their Returns manually, simply enter the termination information onto the Employer Return regardless of when it occurred.

TasBuild can only terminate an Employee once we have sufficient information. The following is required;

Termination code (Term Code)—You will find the termination codes located on the bottom right hand side of the Return. If you complete your Returns online you will need to click on "Terminate" located on the right hand side of the screen across from the Employees name you are terminating. You then select the code that is most applicable.

Termination Date— Enter the termination date for the Employee. Day, month and year. Remember online Employers will have to email through termination information if the date falls outside of the Return they are working on.

Weekly Wage Rate on Termination / Wage Rate (online employers)— You must provide us with the weekly "Ordinary Pay" rate the Employee was being paid prior to terminating. Alternatively you can provide us with the hourly "Ordinary Pay" rate the Employee was receiving prior to terminating. This may be easier for Employees who are employed on a casual basis and you are unsure of their weekly "Ordinary Pay" rate.

It is very important that all three fields are completed, termination code, termination date and weekly wage on termination. TasBuild will need to get in contact with the Employer where insufficient information is provided.

Note: When entering the "Period Pay" for the terminating Employee you do not need to include any accrued entitlements paid out on termination. Only the "Ordinary Pay" up until the date of termination is to be included.

COURT ACTION - *Employer obligation to provide information!*

TasBuild Limited is in a unique position, it is authorised by the **Construction Industry (Long Service) Act** to take enforcement action to recover payments due to the Trustee, to obtain Orders that an Employer register themselves and their Employees with the Trustee, to keep or provide the Trustee with records etc.

Court action is viewed as a last resort and is reluctantly taken, however where required action has and will be initiated in the Magistrates Court to ensure recalcitrant Employers comply

with their obligations.

In a recent matter before the Magistrates Court in Launceston an Employer was ordered to comply with a "Notice to Supply Information" within 14 days of the order being issued.

The matter was listed for hearing as the Employer had been served with a "Notice to Supply" and failed to comply with the "Notice". The Employer claimed that they were not in the Construction Industry and as such the legislation did not apply to them.

The Magistrate held that this was not at issue, the question to be answered was whether the party upon whom the "Notice" was served was an Employer or not.

The Magistrate held that, in this instance, the party was an Employer and they were required to comply with the subject "Notice". He also held that it was likely that the Employer employed persons in "Relevant Employment".