



Update - DECEMBER 2018

Volume 18, Issue 8

20 December 2018

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Entitlement Statistics for: November 2018

- Total entitlements paid: 86
- Total value of entitlements paid: \$758,340.90
- Average weekly rate paid for all entitlements: \$1,195.76
- Average weekly rates paid to specific trades:

Boilermaker Welder:	\$1,131.22
Carpenter:	\$1,126.80
Concreter:	\$1,177.75
Electrician:	\$1,288.58
Glazier:	\$1,173.74
Labourer:	\$1,067.45
Painter:	\$995.62
Plant Oper:	\$1,511.07
Plasterer:	\$1,159.20
Plumber:	\$1,482.53
Refrig Mechanic:	\$1,384.74
Rigger/Scaffolder:	\$1,122.30
Road maker:	\$997.47
Tiler:	\$897.00
Other:	\$00.00

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.

Season's Greetings

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

The TasBuild Office will be closed from 1.00 pm on Friday the 21st of December 2018 and will re-open on Wednesday the 2nd of January 2019.

Best wishes for the season.

Chris Atkins CEO

Return Lodgment

In keeping with previous years, we will be taking a lenient approach to the lodgment of your December 2018 and January 2019 Employer Returns.

Whilst we would like everyone to lodge their Returns by the 14th day of the month following the Return Month, we understand that the Construction Industry traditionally closes over the Christmas, New Year period. We will allow a level of leniency where the above Returns are lodged a little later than specified, and we will be applying a reasonableness test in this area.

Please note this leniency does not extend to payments or Returns that are due or past due for prior months.

Computer System—Upgrade

TasBuild has been working with our Computer Consultants and anticipate that we will be shortly upgrading our current system.

The new system will provide efficiency and productivity gains for all users, particularly employers lodging Employer Returns on-line.

The system will look and feel different but will be more user friendly and intuitive.

We will provide more information as we near the date for implementation.

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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.

Labour Only Workers

Due to a high level of 'latent liability' to the Fund due to non-compliance in this area, TasBuild will be focussing resources in this area in the New Year.

The *Rules of the Construction Industry Long Service Fund (the Rules)* define an employee as follows:

“means a person who is, or has been, employed in Relevant Employment and includes any person engaged whether:

(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.”

Item (ii) above provides that where an Employer employs another person to perform work in Relevant Employment and that other person is contracted to provide, or principally provide, their labour, then that person is an **EMPLOYEE** for the purposes of the Rules.

It should be noted that item (ii) only relates to the circumstances where the person employed is an individual or sole trader. Where the contract is with a partnership or an incorporated organisation the contract is unlikely to meet the “labour of the person” (i.e. a single specific person) requirement, unless specified in the contract.

Where the Employer does contract an individual or sole trader, for the provision of their labour, then the Employer will be required to register that employee and pay long service contributions into the Fund. The employee will then accrue service towards a long service entitlement whilst they are so employed.

In the above circumstances, TasBuild reviews each relationship on the merits of the information provided and corroborated by both parties.

Where the information supplied is not corroborated, then TasBuild will review all of the available information and make a decision based on the evidence provided by each party.

When considering the employment relationship, TasBuild will consider the details of the contract entered into by the parties together with the actions and relationship of the parties.

The traditional “sub-contractor versus employee tests”, established at law and by the Australian Taxation Office, are also considered as an aid to determine whether the subject person is an employee for the purposes of the Rules.

In general terms where an Employer would be required to make superannuation contributions in accordance with the *Superannuation Guarantee (Administration) Act 1992*, then it is likely that they would also be required to make contributions to TasBuild for long service.