



## Update - JANUARY 2019

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### *New Year*

Best wishes to one and all for a fantastic 2019. We hope your year is prosperous and brings you the rewards you deserve for your hard work.

2019 will be an exciting year for TasBuild with the continued growth of the Industry in Tasmania.

As an organisation we will be focusing on the 'labour only', self employed contractors working in the Industry. We will also be working to ensure client interactions with TasBuild are simple and easy, which we hope will be facilitated by the commissioning of a new computer system.

Specific resources will be devoted to the 'labour only' self employed contracting sector. We will soon be finalising the recruitment of additional staff members to assist in this area. Our activities in this regard will be supported by an industry education campaign, which will include industry briefings and a media campaign.

The new computer system should be operational by the end of February 2019. Like all new systems we expect a level of teething issues and we hope that you bear with us during the introduction phase. There is more specific information included later in this Update.

Once again best wishes for the Year.

**Chris Atkins CEO**

### *Computer System—Upgrade*

TasBuild is in the process of upgrading of our computer system and we have scheduled the upgrade to commence on Friday 22 February 2019.

During the upgrade, the Employer portal and Worker portal will be off-line. The outage will commence at 10am on Friday 22 February 2019 until COB Monday 25 February 2019.

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.

A 3 minute video to demonstrate the new user interface for employers, particularly around managing returns and workers, will be uploaded to our webpage shortly.

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#### **Entitlement Statistics for: December 2018**

- Total entitlements paid: **56**
- Total value of entitlements paid: **\$353,613.61**
- Average weekly rate paid for all entitlements: **\$1,199.36**
- Average weekly rates paid to specific trades:

Boilermaker Welder:	<b>\$1,315.30</b>
Carpenter:	<b>\$1,169.02</b>
Electrician:	<b>\$1,324.76</b>
Fitter & Turner:	<b>\$1,216.76</b>
Glazier:	<b>\$916.56</b>
Labourer:	<b>\$1,113.36</b>
Painter:	<b>\$881.60</b>
Plant Oper:	<b>\$1,120.20</b>
Plasterer:	<b>\$1,129.44</b>
Plumber:	<b>\$1,280.61</b>
Refrig Mechanic:	<b>\$1,614.15</b>
Rigger/Scaffolder:	<b>\$1,069.95</b>
Road maker:	<b>\$1,122.50</b>
Sheetmetal Wkr:	<b>\$1,026.00</b>
Other:	<b>\$1,932.00</b>

*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 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/Contractors***

**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.