

ACT NO. 1 OF 2016

I assent.

J. K. KONROTE
President

[15 February 2016]

AN ACT**TO AMEND THE EMPLOYMENT RELATIONS PROMULGATION 2007 AND
FOR RELATED MATTERS**

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Employment Relations (Amendment) Act 2016.
- (2) This Act comes into force on the date of its publication in the Gazette.
- (3) In this Act, the Employment Relations Promulgation 2007 is referred to as the “Promulgation”.

Section 3 amended

2. The Promulgation is amended by deleting section 3 and substituting the following—

“Application

3.—(1) Subject to subsection (2), this Promulgation applies to all employers and workers in workplaces in Fiji, including the Government, other Government entities, local authorities, statutory authorities and the sugar industry.

(2) This Promulgation does not apply to members of the Republic of Fiji Military Forces, the Fiji Police Force and the Fiji Corrections Service.”

New Part 15A inserted

3. The Promulgation is amended by inserting the following new part after Part 15—

“PART 15A—FEDERATION OF TRADE UNIONS AND EMPLOYERS

Registration of federation of trade unions and employers

147A.—(1) Any federation of trade unions or any federation of employers must be registered with the Registrar.

(2) The provisions of Part 14 on the registration of trade unions shall apply *mutatis mutandis* to the registration of any federation of trade unions or federation of employers under subsection (1).

(3) A federation of trade unions or any federation of employers registered under this part shall *mutatis mutandis* be subject to the rights, liabilities and obligations as are available or applicable to trade unions under parts 14 and 15.

(4) The election of officials of any federation of trade unions or any federation of employers registered under this part shall be conducted by the Fijian Elections Office in accordance with the Electoral Decree 2014.”

Section 185 amended

4. Section 185 of the Promulgation is amended by—

(a) deleting the definition of—

(i) “Bargaining Unit”; and

(ii) “trade union” and substituting the following—

““trade union” means a trade union of workers registered under this Promulgation and shall include an enterprise union;” and

(b) inserting the following new definition—

““enterprise union” means a trade union of workers registered under this Promulgation where all the workers who are members of that trade union are employed by the same employer;”

Section 189 amended

5. The Promulgation is amended by deleting section 189 and substituting the following—

“Freedom of Association

189. All workers in an essential service and industry shall have the right to form and join a trade union, and shall be entitled to engage in collective bargaining in accordance with this part, and to have their trade disputes adjudicated by the Arbitration Court in accordance with this part.”

Section 190 amended

6. The Promulgation is amended by deleting section 190 and substituting the following—

“Right of workers to form and join enterprise unions

190. In addition to the rights conferred under section 189, all workers in an essential service and industry shall have the right to form and join an enterprise union, and shall be entitled to engage in collective bargaining in accordance with this part, and to have their trade disputes adjudicated by the Arbitration Court in accordance with this part.”

Section 191BN amended

7. Section 191BN(1)(b) of the Promulgation is amended by deleting “28” and substituting “14”.

Section 191BO amended

8. Section 191BO(1)(b) of the Promulgation is amended by deleting “28” and substituting “14”.

Sections 191X and 191BC deleted

9. The Promulgation is amended by deleting sections 191X and 191BC.

Part 19 amended

10. Part 19 of the Promulgation is amended by inserting the following new division after Division 8—

“Division 8A – Transitional

Reinstatement of individual grievances

191BTA.—(1) Any individual grievance which was terminated or discontinued under section 30(2) of the Decree or under section 266 is hereby reinstated, and shall be determined by the Arbitration Court.

(2) In the determination of any individual grievance which is reinstated under subsection (1), the Arbitration Court shall have such powers and be subject to such procedures as prescribed under sections 191AY and 191AZ.

Application for compensation for termination of employment under the Decree

191BTB.—(1) Subject to subsection (2), any worker who—

- (a) was employed in an essential national industry under the Decree or with a designated corporation or a designated company under the Decree; and
- (b) whose employment was terminated by the employer during the operation of the Decree,

may make an application to the Arbitration Court for compensation, provided however that any such application must be made to the Arbitration Court within 28 days from the date of the commencement of this section.

(2) No application for compensation shall be made by any worker for the termination of employment—

- (a) on the basis of established, proven or admitted corruption, abuse of office, fraud or theft; or
- (b) whereby the facts and situation which led to the termination has resulted in the worker being convicted of an offence.

(3) In the determination for compensation made under this section, the jurisdiction of the Arbitration Court shall be limited to only an award of compensation not exceeding \$25,000.00.

(4) Subject to subsection (3), in the determination of any application made under this section, the Arbitration Court shall have such powers and be subject to such procedures as prescribed under sections 191AY and 191AZ.

Registration of trade unions affected by the Decree

191BTC. Any trade union which was deregistered as a result of the Decree shall be entitled to apply to be registered as a trade union in accordance with this Promulgation, and shall not be required to pay any registration fee which may be applicable, provided however that any such trade union must apply for registration within 7 days from the date of the commencement of this section.”

Passed by the Parliament of the Republic of Fiji this 10th day of February 2016.