



## Update - April 2016

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#### Entitlement Statistics for: March 2016

- Total entitlements paid: 82
- Total value of entitlements paid: \$614,864.43
- Average weekly rate paid for all entitlements: \$1,156.51
- Average weekly rates paid to specific trades:

Boilermaker Welder:	\$1,472.78
Bricklayer:	\$1,045.00
Carpenter:	\$1,078.74
Electrician:	\$1,406.16
Glazier:	\$950.00
Labourer:	\$1,178.44
Landscaper:	\$1,292.81
Painter:	\$982.75
Plant Oper:	\$1,064.72
Plasterer:	\$1,082.54
Plumber:	\$1,107.85
Rigger/Scaff:	\$1,526.40
Road maker:	\$1,532.54
Sheet metal Wkr:	\$1,144.80
Misc Wkr:	\$1,400.00

*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.*

### **Board Representation**

As a result of the requirement to call for nominations for Board Member positions every four years, I advised that the following persons have been nominated by their respective nominating organisations:

Mr. John Short, nominated by the AMWU;

Mr. Adrian Granger nominated by the TCCI; and

Mr. Trevor Gauld, nominated by Unions Tasmania.

Board members hold office for a period of four years with half expiring every two years

**Chris Atkins CEO**

### **Environment, Social and Governance (ESG) Education**

As previously reported the TasBuild Board has been successful in securing the services of Helga Birgden, the Mercer Partner and Head of Mercer's Responsible Investments for Asia Pacific, to speak on ESG.

Ms Birgden will outline the impact investors are having where they are only supporting corporations that are ethical and good corporate social and environmental citizens and how their investments can shape the activities of the corporate world.

**Ms Birgden will be presenting ESG information at a breakfast scheduled for late May 2016 at Blundstone Arena in Hobart.**

**TasBuild contributors are able to attend the presentation at no cost, if you are interested in attending please email your expression of interest to [chris@tasbuild.com.au](mailto:chris@tasbuild.com.au).**

### **TasBuild Payments by Direct Debit**

The **Direct Debit** option to pay your TasBuild account is likely to be introduced in the new financial year, provided a sufficient number of employers register for this payment option.

If you are **interested in the Direct Debit option** please indicate your interest by **email to [secretary@tasbuild.com.au](mailto:secretary@tasbuild.com.au)**.

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## *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 Act and the Rules provide the technical and legal definitions to be used to determine who is and who is not an employee, in very simple terms an “employee” is a person who is generally employed to work in a building, on a building site, roadway etc. 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 purpose 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, paid wages or a salary***; if they come within the scope of the above definition they need to be included on your Employer Return.

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 typical 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, 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.

*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.*