

Update—August 2010

Volume 1, Issue 4

22 July 2010

Inside this issue:

Annual General Meeting

Employees - who are they?

Debt recovery policy.

Please note: copies of the Monthly Employer Updates are also available on the TasBuild webpage at www.tasbuild.com.au

ANNUAL GENERAL MEETING

Annual General Meeting - Tuesday 19 October 2010!

TasBuild Limited's Annual general Meeting will be held on Tuesday 19 October 2010 at Rydges Hobart, corner of Argyle and Lewis Streets, North Hobart at 5.00 p.m.

The business to be transacted at the AGM is *"the consideration of accounts and the reports of the directors and auditors."*

TasBuild Limited Board of Directors extend an invitation to all employers and contributors to attend the 2010 AGM.

The Board also invite you to join them after the meeting for refreshments and to discuss relevant issues.

Chris Atkins CEO

Entitlement Statistics for July 2010:

- Total entitlements paid: **44**
- Total value of entitlements paid: **\$364,038.09**
- Average weekly rate paid for all entitlements: **\$1097.25**
- Average weekly rates paid to specific trades:

Boilermaker:	\$988.09
Carpenter:	\$1,011.68
Concreter:	\$855.00
Electrician:	\$1,215.15
Glazier :	\$840.67
Labourer:	\$1,095.82
Landscaper:	\$891.86
Painter:	\$950.00
Plant operator:	\$1,526.50
Plasterer:	\$1,080.00
Plumber:	\$1,639.50
Refig Mechanic:	\$1,182.19
Rigger/Scaff:	\$1,182.19
Roadmaker:	\$789.83
Sh metal worker:	\$1,203.00
Others:	\$1,240.00

EMPLOYEES, Who are they?

The above sounds like a simple enough question, however it is a question that causes employers a significant amount of anguish when completing their TasBuild Employer Return.

TasBuild Limited (TasBuild) was established to administer the Construction Industry's long service leave in accordance with the *Construction Industry (Long Service) Act 1997* (the Act). TasBuild took over this role from the Government Department we now know as Workplace Standards Tasmania.

Considering the above the obvious place to start our research for the answer to our question is in the legislation. It should be noted that the Act references a Deed executed between TasBuild and the Government that evidences a number of matters, which in part provides a set of Rules

to be used to administer the Scheme and has legal status provided by virtue of the interaction between the Act, the Deed and the Rules.

So to answer our question we will need to review both the Act and the Rules.

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 Rules and the Act provides the technical and legal definitions to be used to determine who is and is not an employee, in very simple terms an "employee" is a person who is generally employed to work on a building or on a building site carrying out

"construction work". This work includes erection, installation, reconstruction, re-erection, renovation, alteration, demolition, maintenance and repairs. Under certain conditions employees working off-site may also be employees.

It doesn't matter if an employee is an apprentice, tradesman or labourer; 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.

EMPLOYEES, who are they?

A person employed under a “contract of service” as described in item (i) above, is your typically directly employed person. This employee may be employed on a full time, permanent part time, part time or a casual basis. 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.

Where the person is employed on a “permanent part time”, “part time” or “casual basis” there are potential issues with the number of days that need to be reported on the Employer Return. Where you employ a person/s on any of the ways described above and they are employed for at least one full day they need to be included on the Employer Return. Where they are employed for part days or part days and full days you calculate the number of days to be reported in the period on the following basis:

Total “ordinary” hours employee worked for the month / quarter divided by 7.6 / 8 hours (depending if the “ordinary” week is a 38 / 40 hour week) equals total “Paid Days” on Return.

Example:

130 hrs for month worked / 7.6 (one standard working day based on 38 hours) = 17.10 (17 “Paid Days” to be entered on return) round down if under 0.5 and up if over etc.

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 or 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.

DEBT RECOVERY POLICY

Like most businesses operating in today’s environment the prompt and efficient collection of outstanding funds has become a focus for TasBuild as the number of debtors not complying with our trading terms is growing. The board have recently approved a Debt Recovery Policy and Procedure to address this increasing burden.

Whilst the Board and staff understand business pressure in these areas the very nature of our operations does not allow us to extend credit.

Extending credit may be a pragmatic approach in certain circumstances, however it is not without its costs. In TasBuild’s position, our income (subsidised contributions and investment returns) does not fully fund our liabilities (employee entitlements), and are costs that we are unable to re-coup. Where this outcome is not managed the obvious result is that the current contribution rate would need to be increased, which is contrary to the Board’s aim in this area.

To minimize the adverse consequences of bad or extended debt our policy is to recover outstanding contributions as quickly as possible and the following steps will be taken to minimise the costs of debt recovery.

TasBuild’s **trading terms** require that amounts invoiced should be paid within **30 days** of the date of the invoice.

Where the amount invoiced is for the subsidised **Long Service Charge** and this amount is not paid within **30 days** the **Full Rate** will be charged and invoiced.

In the event that this amount remains unpaid for a further 30 days a TasBuild Staff member will contact you to obtain payment. Where after this action payment is not made you will be issued with a “**7 day to pay letter**” and non-compliance will result in the matter being referred to Tasmanian Collection Services (TCS) for debt recovery.

Where a matter is referred to TCS additional costs will be charged to the account and may be recovered as part of their debt recovery process.

Whilst it is regrettable that a policy of this nature has been initiated, we expect that as an outcome we will:

- improve our performance in this area;
- align with current and accepted debt recovery practices;
- be able to focus on the things that improve efficiency; and
- ensure the majority of employers who pay on time are not adversely impacted by those who don’t.

Where your accounts are paid on time this policy will have no impact on you or your business. **If you are having issues with cash flow and the like be pro-active, contact us where you are unable to pay amounts invoiced within the prescribed time.**