

Company and Employers' Obligations

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Here comes some more of the mundane stuff! Once you've set up the business, it's worth familiarising yourself with your ongoing legal responsibilities.⁶³

The legal requirements for employers, and the taxation and reporting obligations for companies can seem overwhelming at first – but it is better to be fully aware of all of these requirements at the outset and understand which of them you'll have to comply with, than be faced with non-compliance penalties later!

Remember, as complicated as some of this seem, all businesses are in the same canoe and can often provide you with advice about how to navigate your way through. If you need advice, contact a friend or a mentor with a business, or seek the professional advice of a business consultant, chartered accountant, or lawyer. Professional business networks provide a useful forum for learning from other businesses.

Your legal obligations as an employer

For the purposes of the Companies Act (2015), the terms "employee" and "employer" are defined as follows:

Employee	Employer
An individual who, being in Fiji, is engaged under a contract to perform manual labour (whether as an individual or as one of a group of persons).	The person with whom the employee entered into the contract or arrangement.
An individual who, being a resident of Fiji, is employed under an employment contract or as an apprentice outside Fiji by a person who has a place of business in Fiji.	The person who has a place of business in Fiji.
An individual who, being a resident of Fiji, is engaged under a contract or arrangement entered into in Fiji as a master or member of the crew of a vessel, or as captain or member of the crew of an aircraft, the owner of which has a place of business in Fiji.	The owner of the vessel or aircraft.
An individual engaged to provide services under a contract or arrangement under which the person is remunerated (wholly or partly) by commission, success fees, or similar payments.	The person with whom the employee entered into the contract or arrangement.

The following section describes the main obligations for business who are also employers.⁶⁴

Fiji National Provident Fund (FNPF) – Each employer must, no later than the last day of each month, pay to the FNPF the applicable amount of contribution for each of its employees. The mandated rate is 18% of the employee's wages whereby 8% is contributed by the employee and 10% by the employer.

Health and safety (including workers' compensation) – Section 9 of the Health and Safety at Work Act 1996 requires all employers to ensure health and safety at work for all of its workers. An employer can be found to be in breach of this obligation if it does not implement an OHS policy in the workplace that has been prepared in consultation with its workers.

Employers are also required to obtain workmen's compensation insurance to cover any injuries or fatalities that may occur in the workplace. This may soon be replaced by similar legislation to that of the Accident Compensation Act but until then, employers should obtain workmen's compensation cover.

⁶³ This section is based on information kindly provided by Siwatibau and Sloan, and KPMG. It has been adapted for readers. Any mistakes are the authors' own. Readers should always consult with the relevant regulatory authorities for updated information.

⁶⁴ Please note that this is not designed to be an exhaustive list and businesses should always check the relevant legislation.



Insurance – New businesses may also want to consider insurance if needed or relevant to the business. In addition to workmen's compensation, new businesses should consider the need for public liability insurance. Other types of insurance cover may be required depending on the nature of the business. For example, if an employer is providing professional services (medical treatment, legal or accounting etc.) then they should obtain professional indemnity insurance as well; or if the business is running a shop then it would be advisable for them to consider getting insurance to cover damage or loss to its stock in trade, etc.

Taxes – Annex 2 contains a more detailed list of taxation and reporting requirements, but a summary is given below:

- **PAYE (Pay as you earn)** – All employers are required to register with FRCS⁶⁵ within 30 days of commencing any business activity. Where the business has engaged a person to perform duties for a salary, wage, or other income, employers are to withhold tax from their employees' income each month at the prescribed rate stated in Section 111 of the Income Tax Act (2015), and then pay it to FRCS before the end of the calendar month following the month in which the person was required to withhold the tax (Section 117 of the Income Tax 2015). Where employees are paid below the annual threshold, an employer is still required to provide a nil return, but can be granted permission to do so every six months. An employer is required to provide employees with a payslip setting out all payments and deductions, including the employee's FNPF contribution.
- **Statutory training tax⁶⁶** – All employers must pay the statutory training tax (also known as the FNU levy) to the Fiji National University at the prescribed time (usually every six months). The amount is a percentage of all salaries and directors' fees.
- **Contractors Provisional Tax** – If you're not employing staff you should also be aware that any business that engages a contractor to undertake work is required to register for provisional withholding tax with FRCS. Businesses are required to withhold tax from contractors' payments at the prescribed rate and then pay it to FRCS before the end of the calendar month following the month in which business was required to withhold the tax. Once registered a business must provide a return every month, including a nil return.
- **Annual Prescribed Registration Fees (APRF)** – Within 28 days of the anniversary of a company being registered, the company is required to pay an annual registration fee to the Registrar of Companies at the prescribed rate.
- **Annual returns filing and corporate tax returns** – All companies are required to lodge an annual financial statement with FRCS, along with a corporate tax return, even if it is a nil return.

These taxes and obligations, along with others including value-added tax, fringe benefit tax, and the environment and climate adaptation levy, are described in more detail in Annex 2.

It can be hard to get your head around all of your obligations, but don't shy away from this side of your business and remember you can always ask for help!

⁶⁵ Fiji Revenue and Customs Service, <https://www.frcs.org.fj/>.

⁶⁶ Fiji National University, "Levy Order (as amended by the Fiji National University Amendment Decree No. 58 of 2010)," https://www.fnu.ac.fj/ntpc/images/Forms/Levy_Order_Brochure - FNU.PDF.