

## INTERNATIONAL LABOUR ORGANIZATION

### P155 – PROTOCOL OF 2002 TO THE OCCUPATIONAL SAFETY AND HEALTH CONVENTION 1981

#### 1.0 Summary of the Protocol

- 1.1 The Protocol was formulated in 2002 as a Protocol to the ILO Occupational Safety and Health Convention 1981 (**Convention**). The Protocol has a total of 11 Articles and was enacted to give effect to Articles 4 and 11 of the Convention.
- 1.2 Article 4 of the Convention requires every State Party to formulate, implement and review a coherent national policy on occupational safety, occupational health and the working environment. Article 11 of the Convention states in order to give effect to the policy referred to Article 4, competent authorities must *inter alia* ensure the following:
  - (a) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases; and
  - (b) the publication, annually, of information on measures taken in pursuance of the policy on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work.
- 1.3 Article 1 of the Protocol provides for definitions of terms used in the Convention.
- 1.4 Article 2 of the Protocol requires the competent authority of States Parties to the Protocol to establish and periodically review requirements and procedures for the recording and notification of occupational accidents and diseases, dangerous occurrences, commuting accidents and suspected cases of occupational diseases.
- 1.5 The requirements and processes including the responsibilities of the employer, in relation to recording and notification are set out in Articles 3 and 4 of the Protocol.
- 1.6 Article 5 of the Protocol provides that the notification should include data on:

- (i) the employer, the injured persons and the nature of the injuries or disease;
- (ii) the workplace,
- (iii) the circumstances of the accident or the dangerous occurrence; and
- (iv) in the case of an occupational disease, the circumstances of the exposure to health hazards.

- 1.7 Article 6 of the Protocol requires the State Party based on the notifications and other available information, to publish annually national statistics concerning occupational accidents, occupational diseases and as appropriate, dangerous occurrences and commuting accidents, as well as the analyses of those notifications and other information.
- 1.8 Article 7 of the Protocol further requires that the national statistics to be published are established following classification schemes that are compatible with the latest relevant international schemes under the auspices of the ILO or other competent international organisations.
- 1.9 Articles 8 to 12 of the Protocol outline the ratification processes and provides for other administrative guidance on the Protocol.

## **2.0 Requirements for Implementation**

- 2.1 Fiji's legislative framework is already in compliance with all the obligations under the Protocol.
- 2.2 Under section 20 of the Fijian Constitution, every person has the right to fair employment practices, including humane treatment and proper working conditions.
- 2.3 The Health and Safety at Work Act 1996 (**Act**) and the Health and Safety at Work (Administration) Regulations 1997 (**Regulations**) provide the minimum requirements pertaining to health and safety at work. In this regard, they provide for the systems of notification and recordings of occupational accidents, occupational diseases, dangerous occurrences and suspected cases of occupational diseases by the employers and the competent authorities in Fiji.
- 2.4 Section 26 (1) of the Act provides the following in regards to the notifications of accidents and other matters, where an accident occurs at a workplace, whether or not it causes the death of, or bodily injury to, any person; or any other matter occurs at or in relation to a workplace which affects the health and safety of any person, being an accident or other matter which is required by the regulations to

be notified. Further, the employer at the workplace or such other person as is prescribed shall give notice of the accident or other matter to the Chief Health and Safety Inspector.

### **3.0 Impact of the Convention**

3.1 Fiji ratified the International Labour Organization Occupational Safety and Health Convention 1981 (the Convention) on 28 May 2008.

3.2 Ratification of the Protocol will further strengthen and complement Fiji's national laws and policies some of which are:

- (a) Employment Relations Act 2007, Health and Safety at Work Act 1996;
- (b) Health and Safety and Work (Control of Hazardous Substance) Regulations 2006;
- (c) Health and Safety at Work (Diving) Regulations 2006;
- (d) Health and Safety at Work (Administration) Regulations 1997;
- (e) Accident Compensation (Employment Accidents) Regulations 2018.