
**WELLINGTON FOREMEN STEVEDORES, TIMEKEEPERS, AND
PERMANENT HANDS.—AWARD**

In the Court of Arbitration of New Zealand, Wellington Industrial District.—In the matter of the Industrial Conciliation and Arbitration Act, 1925, and its amendments; and in the matter of an industrial dispute between the Wellington Foremen Stevedores, Timekeepers, and Permanent Hands' Industrial Union of Workers (hereinafter called "the union") and the undermentioned association, companies, and commission (hereinafter called "the employers") :—

The New Zealand Waterside Employers' Association
Industrial Association of Employers, Maritime
Buildings, Wellington.

Anchor Shipping and Foundry Co., Ltd., care of T. and
W. Young, Agents, Wellington.

Canterbury Steam Shipping Co., Ltd., Customhouse
Quay, Wellington.

Gannaway and Co., Ltd., Stevedores, Glasgow Wharf,
Wellington.

Holm and Co., Ltd., Shipping Agents, Brandon Street, Wellington.

Johnston and Co., Ltd., Shipping Agents, Featherston Street, Wellington.

New Zealand Shipping Co., Ltd., Customhouse Quay, Wellington.

Shaw, Savill, and Albion Co., Ltd., corner Customhouse Quay and Brandon Street, Wellington.

Union Steam Ship Co. of New Zealand, Ltd., Customhouse Quay, Wellington.

Waterfront Control Commission, Wellington.

Westport Coal Co., Ltd., Cable Street, Wellington.

THE Court of Arbitration of New Zealand (hereinafter called "the Court"), having taken into consideration the matter of the above-mentioned dispute, and having heard the union by its representatives duly appointed, and having also heard such of the employers as were represented either in person or by their representatives duly appointed, and having also heard the witnesses called and examined and cross-examined by and on behalf of the said parties respectively, doth hereby order and award:—

That, as between the union and the members thereof and the employers and each and every of them, the terms, conditions, and provisions set out in the schedule hereto and of this award shall be binding upon the union and upon every member thereof and upon the employers and upon each and every of them, and that the said terms, conditions, and provisions shall be deemed to be and they are hereby incorporated in and declared to form part of this award; and, further, that the union and every member thereof and the employers and each and every of them shall respectively do, observe, and perform every matter and thing by this award and by the said terms, conditions, and provisions respectively required to be done, observed, and performed, and shall not do anything in contravention of this award or of the said terms, conditions, and provisions, but shall in all respects abide by and perform the same. And the Court doth hereby further award, order, and declare that any breach of the said terms, conditions, and provisions set out in the schedule hereto shall constitute a breach of this award, and that a penalty as by law provided shall be payable by any party or person in respect thereof. And the Court doth further order that this award shall take effect on the 19th day of June, 1944, and shall continue in force until the 19th day of June, 1945, and thereafter as provided by subsection (1) (d) of section 89 of the Industrial Conciliation and Arbitration Act, 1925.

In witness whereof the seal of the Court of Arbitration hath hereto been affixed, and the Judge of the Court hath hereunto set his hand, this 16th day of June, 1944.

[L.S.]

A. TYNDALL, Judge.

SCHEDULE

Application of Award

1. This award shall apply to all foremen stevedores, cargo-repairing foremen, timekeepers, and permanent hands employed at the Port of Wellington, but shall not in any way prevent ship's officers from supervising any work in connection with the loading or discharging of cargo.

Hours of Work

2. The ordinary hours of work shall be from Monday to Friday inclusive, 8 a.m. to 12 noon and 1 p.m. to 5 p.m., and on Saturdays 8 a.m. to 12 noon. Except as hereinafter provided, all other time shall be classed as overtime.

Foremen and Timekeepers' Wages

	Per Week.		
	£	s.	d.
3. (a) Head foremen stevedores (in companies where six or more foremen stevedores are employed)	8	10	0
Foremen stevedores, except as hereinafter stated	8	5	0
With a probationary period of employment of three months at	7	15	0
Foremen employed by Johnston and Co. ..	7	15	0
Foremen employed by Canterbury Shipping Co.	7	5	0
Foremen in charge of cargo repairs	7	5	0
Timekeepers	6	5	0
Permanent hands in charge of store	6	5	0

(b) *Meal-money*.—When foremen are requested to work after 6 p.m. Monday to Friday, and after 1 p.m. on Saturday, 2s. meal-money shall be paid.

(c) *Outports*.—When foremen stevedores are instructed to proceed to an outport they shall be paid 10s. per day in addition to the weekly wage hereinbefore prescribed for each day they are away from Wellington. Further, they shall be provided with meals, first-class fares, and sleeping accommodation.

(d) All time worked outside of the hours prescribed in clause 2 hereof shall be paid for at the rate of time and a half for the first four hours and double time thereafter: Provided, however, that in lieu of payment for overtime the employer may allow time off to the extent of one and a half hours for each hour of overtime worked. The option to allow time off shall not apply to time worked on Sundays and holidays.*

Permanent Hands in Charge of Oil-hulks

4. (a) *Wages*.—The weekly wages shall be at the rate of £5 7s. 6d., with free quarters, light, and heating.

(b) *Overtime*.—All time worked outside the hours prescribed in clause 2 shall be paid for at the rate of time and a half, except that for work done on Sundays and holidays double time, in addition to the weekly wage, shall be paid.

(c) *Continuous Working*.—If having worked all night, except when heating oil, and required to continue after 8 a.m., such time shall be paid for at the overtime rate, except when a relieving man is supplied at 8 a.m.

(d) *General*.—(i) When hulks are moored at a buoy and a launch is not provided, a tug-boat shall be provided, but the question of the days on which the tug-boat shall run shall be arranged by the employer and the hulk-keeper concerned.

(ii) Paint shall be supplied to enable hulk-keepers to paint their living-quarters once a year.

(iii) Domestic tanks shall be cleaned and cemented once a year.

(e) *Raising Steam*.—When it is required to raise steam for 8 a.m. or earlier or after 5 p.m. on week-days or at any time on Sundays and holidays, one hour at the appropriate rate shall be allowed for raising steam from banked fires and two hours at the appropriate rate shall be allowed for raising steam from cold boiler.

Permanent Hands in Charge of Coal-hulks

5. (a) *Wages*.—The weekly wage shall be at the rate of £4 10s., with free quarters, light, and heating.

(b) *Overtime*.—All time worked outside the hours prescribed in clause 2 shall be paid for at the rate of time and a half, except that for work done on Sundays and holidays double time, in addition to the weekly wage, shall be paid.

* This subclause was amended by the Court on 29th June, 1944; see amendment printed at the end of this award.

(c) *General*.—(i) When hulks are moored at a buoy and a launch is not provided, a tug-boat shall be provided, but the question of the days on which the tug-boats shall run shall be arranged by the employer and the hulk-keeper concerned.

(ii) Paint shall be supplied to enable hulk-keepers to paint their living-quarters once a year.

(iii) Domestic tanks shall be cleaned and cemented once a year.

(iv) Work overside, such as chipping, painting, or tarring, shall not be performed while hulks are moored at buoys.

(d) *Raising Steam*.—When it is required to raise steam for 8 a.m. or earlier or after 5 p.m. on week-days or at any time on Sundays and holidays, one hour at the appropriate rate shall be allowed for raising steam from banked fires and two hours at the appropriate rate shall be allowed for raising steam from cold boiler.

(e) When hulk-keepers act as foremen stevedores their rates of pay shall be made up to the rate of foremen stevedores for the time so occupied, but they shall not be entitled to meal-money.

Permanent Hands

6. (a) *Wages*.—The weekly wage shall be at the rate of £5.

(b) *Overtime*.—All time worked outside the hours prescribed in clause 2 shall be paid for at the rate of time and a half, except that for work done on Sundays and holidays double time, in addition to the weekly wage, shall be paid.*

(c) When permanent hands act as foremen stevedores their rate of pay shall be made up to the rate of foremen stevedores for the time so occupied.

(d) When permanent hands are called on to clean oil from the harbour they shall be paid for at the rate of double time.

(e) Overtime shall be worked as required by the employer, but permission to take an evening off duty shall not be unreasonably withheld by the employer, provided the request is made not later than noon on the day on which the time off is required.

APPLICABLE TO ALL SECTIONS

Payment of Wages

7. Wages shall be paid weekly and not later than Thursday. In the event of a holiday falling on Thursday, wages shall be paid on the Wednesday.

* This subclause was amended by the Court on 29th June, 1944; see amendment printed at the end of this award.

Holidays

8. (a) Sundays, Christmas Day, Boxing Day, New Year's Day, Anniversary Day, Good Friday, Easter Monday, Anzac Day, Labour Day, the birthday of the reigning Sovereign, and waterside workers' picnic day.

(b) *Annual Holidays.*—Foremen stevedores who have been employed by any employer for ten years or over shall be entitled to three weeks' holiday per annum. All other workers shall receive two weeks' holiday per annum. Holidays under this clause shall be taken at a time to be mutually agreed on.

Matters not provided for

9. Any dispute in connection with any matter not provided for in this award shall be settled between any particular employer concerned and the secretary or president of the union, and in default of any agreement being arrived at, such dispute shall be referred to the Conciliation Commissioner, who may either decide the same or refer the matter to the Court. Either party, if dissatisfied with the decision of the Conciliation Commissioner, may appeal to the Court upon giving written notice of such appeal to the other party within fourteen days after such decision shall have been communicated to the party desirous of appealing.

Workers to be Members of Union

10. (a) Subject to the provisions of section 18 (5) of the Industrial Conciliation and Arbitration Amendment Act, 1936, it shall not be lawful for any employer bound by this award to employ or to continue to employ in any position or employment subject to this award any adult person who is not for the time being a member of an industrial union of workers bound by this award.

(b) For the purposes of subclause (a) of this clause a person of the age of eighteen years or upwards, and every other person who for the time being is in receipt of not less than the minimum rate of wages prescribed by this award for workers of the age of twenty-one years and upwards, shall be deemed to be an adult.

(NOTE.—Attention is drawn to subsection (4) of section 18 of the Industrial Conciliation and Arbitration Amendment Act, 1936, which gives to workers the right to join the union.)

Under-rate Workers

11. (a) Any worker who considers himself incapable of earning the minimum wage fixed by this award may be paid such lower wage as may from time to time be fixed, on the

application of the worker after due notice to the union, by the local Inspector of Awards or such other person as the Court may from time to time appoint for that purpose; and such Inspector or other person in so fixing such wage shall have regard to the worker's capability, his past earnings, and such other circumstances as such Inspector or other person shall think fit to consider after hearing such evidence and argument as the union and such worker shall offer.

(b) Such permit shall be for such period, not exceeding six months, as such Inspector or other person shall determine, and after the expiration of such period shall continue in force until fourteen days' notice shall have been given to such worker by the secretary of the union requiring him to have his wage again fixed in manner prescribed by this clause: Provided that in the case of any person whose wage is so fixed by reason of old age or permanent disability it may be fixed for such longer period as such Inspector or other person shall think fit.

(c) Notwithstanding the foregoing, it shall be competent for a worker to agree in writing with the president or secretary of the union upon such wage without having the same so fixed.

(d) It shall be the duty of the union to give notice to the Inspector of Awards of every agreement made with a worker pursuant hereto.

(e) It shall be the duty of an employer, before employing a worker at such lower wage, to examine the permit or agreement by which such wage is fixed.

Increase in Rates of Remuneration

12. All rates of remuneration, including time and piece wages and overtime and any other special payments, provided for in this award shall be increased to the extent and in the manner prescribed by the two general orders of the Court made under the Rates of Wages Emergency Regulations 1940, and dated the 9th August, 1940, and the 31st March, 1942, respectively.

EXPLANATORY NOTE.—(1) The general order of the 9th August, 1940, increased *rates of remuneration* determined by awards and industrial agreements and apprenticeship orders by an amount equal to 5 per cent. thereof.

(2) (a) The general order of the 31st March, 1942, further increased *rates of remuneration* determined by awards and industrial agreements and apprenticeship orders (inclusive of the 5 per cent. increase provided by the general order of the 9th August, 1940) by an amount equal to 5 per cent. thereof, but excluded from the increase such portion of the *remuneration* of each worker as exceeded—

- (i) The amount of £5 a week in the case of male workers twenty-one years of age and over;
- (ii) The amount of £2 10s. a week in the case of female workers twenty-one years of age and over;

(iii) The amount of £1 10s. a week in the case of male and female workers under twenty-one years of age; and

(iv) The amount of £1 10s. a week in the case of apprentices under apprenticeship orders.

(b) The increase in *rates of remuneration* provided by the order referred to in (a) hereof applied to the unexcluded portion of the *remuneration* of each worker, irrespective of his or her total weekly *remuneration*.

(3) The term "*rates of remuneration*" includes time and piece wages and overtime and any other special payments. The term "*remuneration*" means actual earnings, including time and piece wages and overtime and any other special payments.

Scope of Award

13. This award shall be limited in its scope to the Port of Wellington.

Term of Award

14. This award shall come into force on the 19th day of June, 1944, and shall continue in force until the 19th day of June, 1945.

In witness whereof the seal of the Court of Arbitration hath hereto been put and affixed, and the Judge of the Court hath hereunto set his hand, this 16th day of June, 1944.

[L.S.]

A. TYNDALL, Judge.

MEMORANDUM

The principal matters referred to and settled by the Court related to hours of work, wages, meal-money, overtime, holidays, and term of award.

The application for the hearing of the dispute by a Council of Conciliation was filed with the Clerk of Awards before the 15th December, 1942, and the dispute was before the Court before the 8th May, 1943; consequently in making the award the Court is not required to have regard to the Economic Stabilization Emergency Regulations 1942 (Regulation 43A (2)).

Increases in weekly rates of wages have been awarded to the lower-paid workers in consideration of the fact that their ordinary weekly hours are forty-four.

The Waterfront Control Commission has objected to being made a party to the award, and has submitted the following three grounds of objection:—

“(1) That the Waterfront Control Commission was by virtue of the Waterfront Control Commission Emergency Regulations 1940 vested with emergency authority

to do certain things, among which is the matter of determining wages and conditions of employment of all workers on the waterfronts of N.Z., and that this authority by virtue of section 3 (4) of the Emergency Regulations Act, 1939, overrode the authority prescribed by any civil enactment such as the Industrial Conciliation and Arbitration Act.

"(2) That the title to the current award and the proposals for a new award by the applicant party clearly confine the application of the dispute to shipping companies and their employees, and as the Waterfront Control Commission is not a shipping company, it could not properly be added as a party.

"(3) That the Waterfront Control Commission employs only one classification of the workers party to the dispute, but they represent a majority of the workers party to the dispute. Therefore, it was not competent for the shipping companies who employ only a minority of the total workers to succeed in the application to add the Commission as a party."

The Court has considered the objections, and makes the following comments:—

(1) The Waterfront Control Commission is a body corporate, with perpetual succession and a common seal, and is capable of holding real and personal property and of doing and suffering all that bodies corporate may do or suffer (Statutory Regulations, Serial number 1940/59, Regulation number 4).

(2) The word "employer," for the purposes of the Industrial Conciliation and Arbitration Act, 1925, is defined as including corporations employing one or more workers (section 2, Industrial Conciliation and Arbitration Act, 1925).

(3) The Waterfront Control Commission employs a number of foremen stevedores and is therefore an "employer" within the meaning of the Industrial Conciliation and Arbitration Act.

(4) As an employer, the Waterfront Control Commission may be party to an industrial dispute and may be bound by an award of the Court, either as an original party or a subsequent party (section 89, Industrial Conciliation and Arbitration Act, 1925).

(5) The Waterfront Control Commission may prescribe the terms of employment for persons employed (whether by the Commission or otherwise) for the loading, unloading, or storage of cargo, &c. (Statutory Regulations, Serial number 1940/59, Regulation 12 (2) (g)).

(6) The Court has been advised by the Chairman of the Waterfront Control Commission that to date the Commission has made no order prescribing the terms of employment of foremen stevedores.

(7) A special power of suspension of all or any of the provisions of the Industrial Conciliation and Arbitration Act or of any awards thereunder is provided for in Regulation number 17 (Statutory Regulation, Serial number 1940/59), but the power is vested in the Minister of Labour alone, and not in the Waterfront Control Commission.

(8) The Court knows of no order by the Minister of Labour suspending wholly or partially the provisions of the Industrial Conciliation and Arbitration Act in so far as they apply to workers employed as foremen stevedores on work connected with the loading or unloading of ships, &c., be they employed by the Waterfront Control Commission or any other person or corporate body.

(9) The Court knows of no order, rule, or by-law made in pursuance of the Emergency Regulations in relation to the terms of employment of foremen stevedores which is inconsistent with the provisions of the Industrial Conciliation and Arbitration Act.

(10) In the light of the contents of the two immediately preceding paragraphs, the Court is of the opinion that the Waterfront Control Commission, as a body corporate and an employer of foremen stevedores, may be made a party to an industrial dispute and a party to an award governing the terms and conditions of employment of foremen stevedores.

(11) With regard to the second ground of objection raised by the Waterfront Control Commission, the industry to which the expired award applied is defined in clause 1 of the award as follows:—

This award shall apply to all foremen stevedores, cargo-repairing foremen, timekeepers, and permanent hands employed at the Port of Wellington, but shall not in any way prevent ship's officers from supervising any work in connection with the loading or discharging of cargo.

Clause 1 of the partial settlement which is now before the Court is identical in wording with the above clause. Following the rule of interpretation that the construction of a statute is not limited by its title, we consider that the scope of the clause is not limited by the title given to the previous award. Further, the present dispute is named in the documents as the Wellington Foremen Stevedores, Timekeepers, and Permanent Hands' Industrial Dispute.

(12) With regard to the third ground of objection, the Court, pursuant to subsections (a) and (b) of section 81 of the Industrial Conciliation and Arbitration Act, 1925, directed on

February 22nd, 1944, that the Commission should be cited as a party to the Wellington Foremen Stevedores, Timekeepers, and Permanent Hands' Industrial Dispute, and postponed the hearing of the dispute. The Commission was duly cited as a party on March 20th, 1944. The direction made by the Court pursuant to section 81 was not a decision on an application by shipping companies to add the Commission as a party.

The Court has decided that it cannot uphold the objections of the Commission, and accordingly has added the name of the Commission to the list of parties.

Mr. Prime is not in agreement with the increases awarded, and his dissenting opinion follows.

A. TYNDALL, Judge.

DISSENTING OPINION OF MR. PRIME

I know of nothing to justify the extraordinary increases awarded over and above the rates which were arrived at by agreement of the parties when the last award was made.

**WELLINGTON FOREMEN STEVEDORES, TIMEKEEPERS, AND
PERMANENT HANDS.—AMENDMENT OF AWARD**

In the Court of Arbitration of New Zealand, Wellington Industrial District.—In the matter of the Industrial Conciliation and Arbitration Act, 1925, and its amendments; and in the matter of the Wellington Foremen Stevedores, Timekeepers, and Permanent Hands' award, dated the 16th day of June, 1944.

Thursday, the 29th June, 1944

IN pursuance and exercise of the powers conferred upon it by section 92 (1) of the Industrial Conciliation and Arbitration Act, 1925, this Court doth order that the Wellington Foremen Stevedores, Timekeepers, and Permanent Hands' award, dated the 16th day of June, 1944, shall be and it is hereby amended as follows:—

1. By adding the following words to subclause (d) of clause 3:—

“Time worked on Christmas Day, Anzac Day, and Good Friday shall be paid for at double time rates in addition to the weekly wage. Time worked on the other days (including Sundays) mentioned in clause 8 (a) shall be paid for at the rate of time and a half for the first four hours and double time thereafter, in addition to the weekly wage.”

2. By adding the following words to subclause (b) of clause 6:—

“The minimum period of overtime shall be two hours, except in the case of a 7 a.m. start on an ordinary working-day, when the minimum shall be one hour.”

This order shall come into effect on the day of the date hereof.

[L.S.]

A. TYNDALL, Judge.
