

NEW ZEALAND (EXCEPT NORTHERN AND OTAGO)
NURSERYMEN AND GARDENERS.—AWARD.

[Filed in the Office of the Clerk of Awards, Christchurch]

In the Court of Arbitration of New Zealand, Taranaki, Wellington, Nelson, Marlborough, Westland, Canterbury, and Otago and Southland Industrial Districts.—In the matter of the Industrial Conciliation and Arbitration Act, 1925, and its amendments; and in the matter of an industrial dispute between the New Zealand Federated Labourers' and Related Trades Industrial Association of Workers (hereinafter called "the union") and the undermentioned persons, firms, and companies (hereinafter called "the employers") :—

Duncan and Davies, Ltd., Westown, New Plymouth.

Shailer, G. E., Caledonia Street, Hawera.

Watkins, I., Weymouth Street, New Plymouth.

Anstis, E., and Son, Birdwood Road, Lower Hutt.

Ford Motor Co. of New Zealand, Ltd., Waiwhetu Road, Lower Hutt.

Pilcher, C. F., and Son, Rossiter Avenue, Lower Hutt.

Large and Sons, Brook Street, Nelson.

Bright, S. T., Maxwell Road, Blenheim.

Farnham Nurseries, Mowat Street, Blenheim.

The Blenheim Nursery Co., Middle Renwick Road, Blenheim.

Aulsebrook and Co., Ltd., St. Asaph Street, Christchurch.

Selwyn Plantation Board, Chamber of Commerce Building, Christchurch.

Temuka Domains Board, Temuka.

Brown, R. S., Layard Street, North Invercargill.

McChesney, W., Scott Street, South Invercargill.

Thomson, P. A., "Retreat," Waikiwi, Invercargill.

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 17th day of July, 1944, and shall continue in force until the 17th day of July, 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 10th day of July, 1944.

[L.S.]

A. TYNDALL, Judge.

SCHEDULE

Industry to which Award applies

1. This award shall apply to the nursery industry and to the industry of landscape gardening and gardening, and to gardening work carried out in conjunction with any commercial undertaking or industry, but excluding the growing of fruit or vegetables for sale or attendance to sports-grounds.

Hours of Work

2. (a) An ordinary week's work shall consist of forty-four hours, made up as follows: Not exceeding eight hours on five days of the week, to be worked between the hours of 7.30 a.m. and 5.30 p.m. on each of such days, and not exceeding four hours on Saturday, to be worked between the hours of 7.30 a.m. and noon.

(b) No worker shall be employed for more than five hours continuously without an interval of three-quarters of an hour for a meal.

(c) Those engaged at jobbing work shall be allowed to work up to eight and three-quarter hours on any day of the week at ordinary rates if they elect to do so, provided that the total week's work does not exceed forty-four hours.

Definitions

3. (a) A qualified nurseryman or gardener is a worker who has served an apprenticeship of not less than five years in the industry covered by this award or who at the date of coming into operation of this award has been employed as a nurseryman or gardener for a period of not less than five years.

(b) An unqualified nurseryman or gardener is a worker who is employed as a nurseryman or gardener, but who has neither served an apprenticeship nor been employed as a nurseryman or gardener for a period of five years or over.

(c) A weekly worker is a worker who is employed and paid by the week.

(d) A casual worker is a worker who is employed for a period of less than one week.

Wages

4. (a) The minimum rates of wages shall be as follows:—

Qualified nurseryman or gardener	..	£5 15s. per week.
Qualified casual nurseryman or gardener	..	2s. 9d. per hour.
Unqualified nurseryman or gardener	..	£5 6s. per week.
Unqualified casual nurseryman or gardener	..	2s. 6½d. per hour.
Labourers	.. .. .	£4 17s. 6d. per week.
Casual labourers	.. .. .	2s. 4d. per hour.

(b) Foremen in charge of three or more workers shall be paid 2s. 6d. per week in addition to their ordinary rate of wages.

(c) Workers who at the coming into force of this award are in receipt of a higher rate of wages than prescribed herein shall not have their wages reduced whilst their employment continues.

Females and Youths

5. (a) Females and youths shall be paid not less than the following rates of wages:—

Females—		Per Week.		
		£	s.	d.
First six months ..	..	1	0	0
Second six months ..	..	1	4	0
Third six months ..	..	1	8	0
Fourth six months ..	..	1	12	0
Fifth six months ..	..	1	16	0
Sixth six months ..	..	2	0	0
Fourth year ..	..	2	7	6
Thereafter ..	..	2	17	6

Provided that females of the age of eighteen years and upwards shall be paid not less than £1 16s. for the first six months and thereafter according to scale.

Youths—		Per Week.		
		£	s.	d.
First six months ..	..	1	0	0
Second six months ..	..	1	4	0
Third six months ..	..	1	8	0
Fourth six months ..	..	1	12	0
Fifth six months ..	..	1	17	0
Sixth six months ..	..	2	1	0
Fourth year ..	..	2	12	0
Fifth year ..	..	3	2	0

Thereafter adult rates.

Provided that youths of the age of eighteen years and upwards shall be paid not less than £1 17s. per week for the first six months and thereafter according to scale.

(b) Female workers and youths shall be employed on a weekly basis only. Youths or females may be employed in a proportion of not more than one female or youth, as the case may be, to each three or fraction of three fully paid workers. In special cases this proportion may be increased by arrangement between the union and the employer. During the budding season one junior to each adult may be employed.

Increase in Rates of Remuneration

6. 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.

Payment of Wages

7. (a) Wages shall be paid each week in working-hours on the regular pay-day not later than Thursday.

(b) No deduction shall be made from the weekly wages prescribed in this award except for time lost through the worker's own default or sickness.

Overtime

8. (a) All time worked outside of or in excess of the hours mentioned in clause 2 hereof shall be considered overtime, and shall be paid for at the rate of time and a half for the first four hours and double time thereafter.

(b) All work done on Christmas Day, Good Friday, Anzac Day, or on Sunday shall be paid for at double time rates, and work done on any of the other holidays hereinafter mentioned shall be paid for at the rate of time and a half: Provided, nevertheless, that all work done in attendance to forcing-stoves, greenhouses, frames, or bushhouses on Sundays or holidays shall be paid for at ordinary rates.

Holidays

9. (a) The following shall be the recognized holidays which shall be paid for at ordinary rates except when the holiday falls on a day other than an ordinary working-day: New Year's Day, Good Friday, Easter Monday, Labour Day, the birthday of the reigning Sovereign, Christmas Day, Boxing Day, and Anniversary Day: Provided any employer or worker may agree to substitute any other days in lieu of King's Birthday or Anniversary Day.

(b) The employer shall pay wages for the above holidays to all workers performing work coming within the scope of this award who have been employed by him at any time during the fortnight ending on the day on which the holiday occurs.

(c) Where any worker has been employed upon work coming within the scope of this award by more than one employer during the fortnight ending on the day on which any of the above holidays occurs, he shall be entitled to receive payment for the holiday from such one or more of those employers, and if more than one, in such proportions as the Inspector of Awards determines.

(d) In the event of a holiday, other than Anzac Day, falling on a Sunday such holiday shall be observed on the succeeding Monday, and in the event of another holiday falling on such Monday, such other holiday shall be observed on the succeeding Tuesday. ,

(NOTE.—Attention is drawn to the provisions of the Annual Holidays Act, 1944, which will apply to workers covered by the provisions of this award, as from the 1st August, 1944.)

General Provisions

10. (a) Workers required to work overtime on any day without being notified on the previous day of such overtime shall, provided that they cannot reasonably get home, be paid 1s. 9d. for a meal.

(b) A time and wages book setting out the names of the workers employed, the hours of employment, and the wages paid each week shall be kept by each employer bound by this award.

(c) A first-aid outfit shall be kept on the premises for use in case of accidents.

(d) All tools shall be supplied by the employers.

(e) An interval of ten minutes shall be allowed during each morning and afternoon.

Accommodation

11. The employer shall provide suitable sanitary accommodation for the use of workers, and also a suitable room for workers to keep their clothes and take their meals.

Where more than three female workers are employed in addition to male workers separate sanitary accommodation for each sex shall be provided.

Suburban Work

12. Work done over one and a half miles from the employer's place of business but which does not come within the definition of country work shall be considered suburban work, and workers employed thereon shall be allowed and paid for time reasonably occupied by them in going to and from such work, or they shall be conveyed to and from such work at the cost of the employer. Where transport is not provided by the employer the cost of fares incurred by the workers in so travelling shall be paid by the employer. No worker residing less than one and a half miles by the nearest convenient mode of access for foot-passengers from the place where the work is to be done shall be entitled to the allowance mentioned in this clause.

Country Work

13. (a) "Country work" means work done by a worker in such a locality as to necessitate his sleeping elsewhere than at his genuine place of residence in New Zealand.

(b) The provisions herein contained relative to country work shall apply whether or not the worker, prior to his accepting such country work, is already in the service of the employer, and whether the worker is engaged at the place where the work is to be done or elsewhere, and irrespective of the situation of the employer's usual place of business.

(c) The employer shall convey the worker free of charge, or pay his fare, to and from country work, but once only during the continuance of the work. If, however, the worker is withdrawn from such work by the employer, or if he returns therefrom requiring medical attention in consequence of accident or sickness arising out of and in the course of the employment, and is, in either case, again required on the work, the employer shall again convey him or pay his fare to and from such work.

(d) Time occupied in travelling during the ordinary working-hours, once each way, shall be paid for at ordinary rates.

(e) The employer shall either provide the worker while on country work with suitable board and lodging or, in lieu thereof, pay him for each day of the week other than Sunday the sum of 5s.: Provided that, where through circumstances within the control of the employer a worker is employed upon country work for less than six consecutive days, the employer shall provide such board and lodging and may not elect to make such payment in lieu thereof. Suitable board and lodging shall include the providing of mattresses and stretchers.

(f) When the work is situated less than fifty miles from the employer's place of business, the worker shall be refunded his return railway fare to and from the place of engagement once every four weeks during the continuance of the work. When the work is situated over fifty miles from the employer's place of business the refund shall be made once in each three months.

(g) Notwithstanding anything contained herein, and subject to clause 8 (b) hereof, an employer may agree in writing with any worker that in respect of any specified country work the hours of work shall be other than those hereinbefore prescribed: Provided, however, that all time worked outside or in excess of such prescribed hours shall be considered overtime, and shall be paid for at the rate of 1d. per hour in addition to the ordinary rates.

Term of Engagement

14. Except in the case of workers paid by the hour, a week's notice of dismissal or resignation shall be given by the employer or worker. In the case of hourly workers, two hours' notice on either side shall terminate the engagement. This clause shall not prevent any employer from summarily dismissing any worker for misconduct.

Disputes Committee

15. The essence of this award being that the work of the employers shall not on any account whatsoever be impeded but shall always proceed as if no dispute had arisen, it is provided that if any dispute or difference shall arise between the parties bound by this award, or any of them, as to any matter whatsoever arising out of or connected therewith and not dealt with in this award, every such dispute or difference shall be referred to a committee to be composed of two representatives of each side, together with an independent chairman to be mutually agreed upon or, in default of agreement, to be appointed by the Conciliation Commissioner for the district. Either side shall have the right to appeal to the Court against

a decision of any such committee upon giving to the other side written notice of such appeal within fourteen days after such decision has been made known to the party desirous of appealing.

Workers to be Members of Union

16. (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

17. (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 wages, to examine the permit or agreement by which such wage is fixed.

Right of Entry upon Premises

18. The secretary or other authorized officer of the union shall, with the consent of the employer (which consent shall not be unreasonably withheld), be entitled to enter at all reasonable times upon the premises or works and there interview any workers, but not so as to interfere unreasonably with the employer's business.

Application of Award

19. This award shall apply to the original parties named herein, and shall extend to and bind as subsequent party hereto every trade-union, industrial union, industrial association, or employer who, not being an original party hereto, is, when this award comes into force or at any time whilst this award is in force, connected with or engaged in the industry to which this award applies within the industrial districts to which this award relates.

Scope of Award

20. This award shall operate throughout the Taranaki, Wellington, Nelson, Marlborough, Westland, and Canterbury Industrial Districts, and that portion of the Otago and Southland Industrial District comprised in the former Provincial District of Southland.

Term of Award

21. This award shall come into force on the 17th day of July, 1944, and shall continue in force until the 17th day of July, 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 10th day of July, 1944.

[L.S.]

A. TYNDALL, Judge.

MEMORANDUM

The principal matters referred to and settled by the Court related to hours of work, definitions, wages, employment of youths, payment of wages, overtime, holidays, accommodation, suburban work, country work, and term of award.

Adjustments have been made to certain weekly rates of wages in consideration of the fact that workers under this award are required to work forty-four hours per week.

In making the award the Court has had regard to the requirements of the Economic Stabilization Emergency Regulations 1942.

Mr. Prime is not in agreement, and his dissenting opinion follows.

A. TYNDALL, Judge.

DISSENTING OPINION OF MR. PRIME

The factors which appear to the majority of the Court to justify increases in wage rates were all present, and no doubt were fully considered, when the rates in the expired award were fixed. Having regard to that fact and to the fact that wage increases generally do not appear to be likely to promote the economic stability of the country under present circumstances, I am unable to agree that the increases awarded are justified.