

**NEW ZEALAND MILK PRODUCTS, LTD., EMPLOYEES.—AWARD**

In the Court of Arbitration of New Zealand, Otago and Southland 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 Southland Milk-condensing Factories' Employees' Industrial Union of Workers (hereinafter called "the union") and the undermentioned company (hereinafter called "the employers") :—

The New Zealand Milk Products, Ltd., Underwood, 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 as hereinafter provided and shall continue in force until the 1st day of April, 1946, 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 17th day of August, 1945.

[L.S.]

A. TYNDALL, Judge.

## SCHEDULE

*Industry to which Award applies*

1. This award shall apply to the manufacturing undertaking carried on by the New Zealand Milk Products, Ltd., at Underwood and to all workers, except those hereinafter exempted, employed in connection with that undertaking.

*Hours of Work*

2. (a) *Adult Males*.—Except as hereinafter provided, the ordinary hours of work for adult males shall be forty-four per week, to be worked between the hours of 7 a.m. and 5 p.m. Monday to Friday, and between 7 a.m. and noon on Saturdays. Shifts of not more than eight hours may be worked when necessary, and workers engaged on any shift any portion of which is outside the regular clock-hours of 7 a.m. to 5 p.m. shall be paid 1s. 6d. per shift in addition to the schedule of rate of wages.

(b) *Females and Youths*.—The ordinary hours of work for females and youths shall be forty per week, to be worked between the hours of 8 a.m. and 5 p.m. Monday to Friday, both days inclusive: Provided that urgent or necessary work may be performed on Saturday morning between the hours of 8 a.m. and noon at ordinary rates of pay in addition to the weekly wage prescribed herein, but so that not more than forty-four hours in any one week shall be worked without payment at overtime rates.

*Wages*

3. (a) *Adult Males* (per week of forty-four hours, as specified in clause 2 (a) hereof):—

	£	s.	d.
Workers in charge of milk tipping ..	5	18	0
Workers working on clarifiers and separators .. .. .	5	18	0
Workers in charge of cooling room ..	5	18	0
Workers in charge of store room ..	5	18	0
Workers in charge of malted milk department .. .. .	5	18	0
All other workers in or about the factory .. .. .	5	13	0

Provided that, should the ordinary hours of work for adult males be reduced to forty per week as a result of any legislative enactment or of any order made thereunder, the rate of wages for the above five specified classes of work shall be £5 7s. 6d. per week and for all other male adult workers £5 2s. 6d. per week.

(b) *Youths*.—Subject to the provisions of section 32 of the Factories Act, 1921–22, as amended by section 12 of the Factories Amendment Act, 1936, youths may be employed at not less than the following rates of wages:—

		Per Week.		
		£	s.	d.
15 to 15½ years of age	.. ..	1	5	0
15½ to 16 years of age	.. ..	1	10	0
16 to 16½ years of age	.. ..	1	15	0
16½ to 17 years of age	.. ..	2	0	0
17 to 17½ years of age	.. ..	2	5	0
17½ to 18 years of age	.. ..	2	10	0
18 to 19 years of age	.. ..	2	17	6
19 to 20 years of age	.. ..	3	10	0

Thereafter, the rate prescribed for adults.

(c) *Females*.—Subject to the provisions of section 32 of the Factories Act, 1921–22, as amended by section 12 of the Factories Amendment Act, 1936, females may be employed at not less than the following rates of wages:—

		Per Week.		
		£	s.	d.
15 to 15½ years of age	.. ..	1	3	0
15½ to 16 years of age	.. ..	1	7	0
16 to 16½ years of age	.. ..	1	11	0
16½ to 17 years of age	.. ..	1	15	0
17 to 17½ years of age	.. ..	1	19	0
17½ to 18 years of age	.. ..	2	3	0
18 to 19 years of age	.. ..	2	7	6
19 to 20 years of age	.. ..	2	12	6
20 to 21 years of age	.. ..	2	17	6
Over 21 years of age	.. ..	3	0	0

Female workers working on steam vacuum pans and female laboratory assistants shall be paid 5s. per week in addition to their ordinary wages.

(d) Engineers, canister-makers, metal-workers' assistants, tinsmiths, firemen, painters, &c., shall be paid the rates of wages prescribed in the respective awards covering such workers for the time being in force in the district in which they are employed, but shall otherwise be bound by the provisions of this award.

*Casual Labour*

4. The rate for casual workers shall be not less than 2s. 8½d. per hour. A casual worker is a worker employed for less than a week.

*Increase in Rates of Remuneration*

5. 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.

*Overtime*

6. (a) Except where otherwise provided, all work done outside or in excess of the hours prescribed in this award shall be paid for at the rate of time and a half for the first four hours and double time thereafter: Provided that, should the ordinary hours of work be reduced to forty per week as a result of any legislative enactment or of any order made thereunder, any hours worked (other than as shift work)

outside or in excess of the hours specified for Monday to Friday (inclusive) shall be paid for at time and a half for the first four hours and double time thereafter, but Saturday morning work shall be paid for at time and a half rates.

(b) For time worked on Sundays workers shall be paid double rates of wages.

#### *Holidays*

7. (a) Every worker covered by this award shall be allowed the following holidays without deduction from wages: Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, Anzac Day, Labour Day, the birthday of the reigning Sovereign, and Anniversary Day or another day in lieu thereof. Should any of the above holidays (except Anzac Day) fall on a Sunday, such holiday shall be observed on the first working day following.

(b) For each of the said holidays on which a worker is employed he shall receive one half-day's wages in addition to his ordinary weekly wage or be allowed a day off in lieu of the said holiday, which day or days shall be added to the worker's annual holiday.

#### *Annual Holiday*

8. (a) Two weeks' holiday shall be allowed all workers on full pay, provided they have worked not less than eight months during the season; and a holiday of proportionate duration shall be allowed should any worker have worked less than eight months during the same season. Such holiday shall be taken during the period known as the "off" season and at a time to be fixed by the employer.

(b) The period of eight months' service may be broken or continuous so long as the total time is worked within the twelve months.

(c) Each worker shall be given seven days' notice of when his annual holiday shall commence, and his holiday pay shall be paid in advance.

#### *Deduction from Wages*

9. No deduction shall be made from the weekly wages provided herein for any cause save for time lost through the worker's own default, sickness, or accident to the worker.

#### *Time and Wages Book*

10. The employer shall keep a time and wages book as required by the Factories Act.

*Payment of Wages*

11. Wages shall be paid at the factory at not more than fortnightly intervals, and not later than 5 p.m. on Wednesday of each fortnight.

*Meal-time*

12. No worker shall be required to work more than five hours continuously without a meal, the time allowed for same to be not less than half an hour. In the case of workers being required to work before 6.30 a.m. or after 6 p.m., half an hour shall be allowed for a meal without deduction. Workers who are required to work overtime after 6 p.m. shall be paid a meal allowance of 1s. 6d.

*Change of Duties*

13. Any worker doing the work usually done by a worker on a higher rate of wages shall be paid such higher rate while he is so employed.

*"Smoke-oh"*

14. The present practice in regard to "smoke-oh" shall continue so long as progress of work is not interfered with.

*Termination of Employment*

15. One week's notice given on either side shall be sufficient to terminate the engagement, but this shall not prevent immediate termination by either side for good cause; in either case, all wages due shall be paid forthwith. The period of notice in either case shall be exclusive of the whole or any part of the annual holiday required to be given in pursuance of this award.

*First-aid Outfit*

16. The employer shall provide a modern first-aid emergency case, fully equipped, which shall be kept in a convenient and accessible place.

*General Conditions*

17. (a) Boiling water shall be provided for meals.

(b) Provision for dressing-rooms, meal-rooms, lockers, or locker-room shall be in accordance with the requirements of the Inspector of Factories.

(c) Wash-basins with hot and cold water shall be provided for the workers by the employer.

(d) All workers employed in wet positions shall be supplied by the employer with suitable aprons free, which shall remain the property of the employer. Workers required to clean boilers, brine-tanks, and gasometers shall be provided with overalls.

(e) Washers on vacuum pans shall be paid 3d. for each flying clean or 9d. for each full clean in addition to the ordinary weekly wage.

(f) Where workers are required to wear uniforms or white smocks, &c., other than their usual clothing, the same shall be supplied by the employer and kept clean and in repair by the employer.

(g) Male workers employed in the tin shop shall be provided with suitable aprons at the employer's expense.

#### *Exemptions*

18. Nothing in this award shall apply to managers, foremen, chemists, clerical workers, or motor or horse drivers.

#### *Workers to be Members of Union*

19. (a) Subject to the provisions of subsection (5) of section 18 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.

(c) Every person who, being obliged to become a member of any union by the operation of the foregoing provisions, fails to become a member of that union when requested so to do by his employer or any officer or representative of the union commits a breach of this award, and shall be liable accordingly.

(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*

20. (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.

*Matters not provided for*

21. Any dispute in connection with any matter not provided for in this award shall be settled between the employer concerned and the secretary or president of the union, and in default of any agreement being arrived at, then such dispute shall be referred to the Conciliation Commissioner, who may either decide same or refer the matter to the Court. Either party, if dissatisfied with the decision of the 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 desiring to appeal.

*Right of Entry*

22. The secretary or other authorized officer of the union of workers shall, with the consent of the employer (which consent shall not be unreasonably withheld), be entitled to interview workers during their working-hours, but not so as to interfere unreasonably with the employer's business.

*Extension of Hours under Factories Act*

23. Pursuant to the provisions of section 3 of the Factories Amendment Act, 1936, the limits of hours fixed by subsection (1) of that section are hereby extended in the manner and to the extent set forth in this award in respect of each occupier of a factory bound by the provisions of this award.

*Scope of Award*

24. This award shall apply only to the parties named herein.

*Term of Award*

25. This award, in so far as it relates to wages, shall be deemed to have come into force on the 1st day of April, 1945, and so far as all the other conditions of this award are concerned it shall come into force on the day of the date hereof; and this award shall continue in force until the 1st day of April, 1946.

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 17th day of August, 1945.

[L.S.]

A. TYNDALL, Judge.

## MEMORANDUM

In making the award, which embodies the terms of settlement reached either in Conciliation Council or by the representatives of the parties, the Court has had regard to the provisions of the Economic Stabilization Emergency Regulations 1942.

Wages have been made payable retrospectively by agreement.

With reference to the hours of work prescribed by clause 2 (b), and the extension of hours under the Factories Amendment Act, 1936, these provisions are inserted with

the concurrence and at the request of the parties, and merely repeat the provisions of the expiring award. An extension of hours of an almost similar nature was granted by the Court in 1936 (36 Book of Awards 830).

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

A. TYNDALL, Judge.

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#### DISSENTING OPINION OF MR. MONTEITH

I am not in agreement with the majority of the Court that an extension under the Factories Act is necessary. At the hearing the Court was not informed why it was necessary that the hours should be forty-four, and before any order is made it is the duty of the parties to inform the Court why such extension is necessary. No attempt was made to do so.

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