

**NEW ZEALAND (EXCEPT MARLBOROUGH AND WELLINGTON
TWENTY-MILE RADIUS) MILK PASTEURIZING AND
BOTTLING FACTORIES' EMPLOYEES.—AWARD.**

[Filed in the Office of the Clerk of Awards, Wellington.]

In the Court of Arbitration of New Zealand, Northern, Taranaki, Wellington, Nelson, 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 Dairy Factories and Related Trades' Employees' Industrial Union of Workers (hereinafter called "the union") and the undermentioned persons, firms, and companies (hereinafter called "the employers") :—

NORTHERN INDUSTRIAL DISTRICT

Auckland Milk Co., Ltd., Arthur Street, Newmarket, Auckland.
Baraclough, E., Robert Street, Tauranga.
Merrin, E. A., Milk-vendor, Otorohanga.
Milne, W. H., Milk-vendor, Taumarunui.
New Zealand Co-operative Dairy Co., Ltd., Hamilton.
Okitu Dairy Co., Gisborne.
Peck, C. M., Three Kings Road, Mount Roskill, Auckland.
Sothorn and Co., Ltd., 15 Kamo Road, Whangarei.
Stonex Bros., Edinburgh Street, Newton, Auckland.
Takapuna Dairy Co., Ltd., Victoria Road, Devonport, Auckland.
Tew, S., Milk-vendor, Opotiki.
Waters, J. H., The Creamery, Rotorua.
Wyborn, Gordon, Te Aroha.

TARANAKI INDUSTRIAL DISTRICT

City Dairies, Ltd., Devon Street, New Plymouth.
 Neil, R. L., Fenton Street, Stratford.
 Royal Oak Dairy Co., Ltd., New Plymouth.

WELLINGTON INDUSTRIAL DISTRICT

Bates, P. C., Confectioner, Wairoa, Hawke's Bay.
 Manawatu Milk and Cream Co., Palmerston North.
 Model Dairies, Ltd., Wanganui East.
 Napier Dairy Co., Ltd., Marine Parade, Napier.
 Rawhiti Dairy (Boniface and Gyde), Dannevirke.
 Ward Bros., Milk-vendors, Raetihi.

NELSON INDUSTRIAL DISTRICT

Nelson Dairies, Ltd., Bridge Street, Nelson.

WESTLAND INDUSTRIAL DISTRICT

United Dairies, Ltd., Westport.

CANTERBURY INDUSTRIAL DISTRICT

Albany Dairy, Ltd., 161 Lichfield Street, Christchurch.
 Christchurch Dairy Co. (P. Watson), Tuam Street, Christchurch.
 Devendale Dairy (J. R. D. Johns and E. T. Forbes), 111 Armagh
 Street, Christchurch.
 Midland Dairy Co-operative, Ltd., Timaru.
 Supreme Dairy, Ltd., Timaru.
 United Dairies, Ltd., 239-243 Barbadoes Street, Christchurch.

OTAGO AND SOUTHLAND INDUSTRIAL DISTRICT

Coster, A., Nith Street, Invercargill.
 Grace and Sons, Balclutha.
 Harrison, R., Bluff, Southland.
 North Otago Dairy Co., Oamaru.
 Otago Co-operative Milk Supply Co., Ltd., Dunedin.
 Quality Milk Supply Co., Ltd., Dunedin.
 Taieri and Peninsula Milk Supply Co., Ltd., Dunedin.

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 7th day of May, 1945.

[L.S.]

A. TYNDALL, Judge.

SCHEDULE

Industry to which Award relates

1. This award shall apply to workers employed in milk and/or cream pasteurizing factories, pasteurizing and/or bottling factories, and in raw milk and/or cream distributing factories or depots, and to drivers (other than roundsmen) employed in carting milk to or from such factories or depots.

Hours of Work

2. (a) The ordinary hours of work for all workers shall be forty per week.

(b) Such hours shall be worked on not more than six days of the week. Not more than eight hours shall be worked on any day without payment of overtime.

(c) Where shifts are not worked the ordinary hours of work shall be worked between the hours of 6 a.m. and 5.30 p.m.

Wages

3. (a) The following shall be the minimum rates of wages payable to adult workers:—

	Per Week.		
	£	s.	d.
Workers in charge of pasteurizers, separators, clarifiers, regenerators, &c., or in the chilling of milk	5	5	0
Drivers of any class of motor-vehicles with a combined weight of vehicle and maximum load—			
Up to 4½ tons	5	8	6
Over 4½ tons	5	15	0
Second-class engine-drivers	5	12	6
All other workers	5	0	0

(b) (i) Subject to the provisions of the Factories Act and its amendments, youths may be employed at not less than the following rates of wages:—

	Per Week.		
	£	s.	d.
Under 16 years of age	1	14	0
16 to 16½ years of age	1	18	0
16½ to 17 years of age	2	2	0
17 to 17½ years of age	2	7	0
17½ to 18 years of age	2	11	0
18 to 18½ years of age	2	15	0
18½ to 19 years of age	3	0	0
19 to 19½ years of age	3	4	0
19½ to 20 years of age	3	8	0
20 to 20½ years of age	3	13	6

(ii) The proportion of youths shall be one to three or fraction of three men fully employed.

(c) Casual labour may be employed at the rate of 2s. 9d. per hour.

(d) Where free milk allowance is now provided the arrangement shall continue.

Increase in Rates of Remuneration

4. 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.

Night-shift Workers

5. (a) Shift-workers whose normal duties commence before 6 a.m. or after midday shall be paid 2s. per shift extra.

(b) Where shifts are being worked no worker shall after the completion of one shift be called upon to commence work on another shift until a period of at least eight hours shall have elapsed.

Payment of Wages

6. All wages shall be paid weekly and in cash.

Overtime

7. (a) All work done in excess 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 thereafter double time.

(b) Except in the case of shift-workers, time worked outside the hours prescribed in clause 2 (c) shall be paid for at the rate of time and a half for the first four hours and thereafter double time.

General Conditions

8. (a) Attendance to motor-vehicles may be performed within the hours specified in clause 2 hereof.

(b) (i) All workers shall be supplied by the employer, free of cost, with waterproof aprons.

(ii) Where it is compulsory and a condition of employment that workers shall wear overalls the same shall be supplied by the employer.

(iii) Where it is necessary for a worker to wear water-proof boots, the same shall be provided by the employer. The question as to whether such equipment is necessary for any worker shall be settled by agreement between the employer and a representative of the union. In default of such agreement, the question shall be settled under clause 17 of this award.

(c) No deduction shall be made from the wages and other payments prescribed herein for any cause save for time lost through sickness or default of the worker, or through accident not arising out of or in the course of employment.

"Smoke-oh"

9. Day workers shall be permitted a break of ten minutes each morning and each afternoon, and night workers one break of ten minutes each shift at a time to be arranged by the manager, provided there is no complete cessation or interruption of the work of the factory.

Termination of Employment

10. One week's notice of termination of employment shall be given by either side or in lieu thereof one week's wages shall be paid by the employer or forfeited by the worker. This provision shall not prevent the immediate termination by either side for good cause, in which case wages due shall be paid forthwith.

Time and Wages Book

11. (a) Every employer bound by this award shall keep a time and wages book, in which shall be correctly recorded:—

- (1) The name of every worker employed:
- (2) The kind of work in which he is employed:
- (3) The daily hours of his employment:
- (4) The wages paid each week.

(b) An employer shall provide time-sheets or time books to each worker, who shall each day record and initial the hours worked on that day.

(c) There shall be included in each worker's pay envelope a statement in detail of wages, overtime, and all other payments and deductions.

Holidays

12. (a) For all workers covered by this award the provisions of the Factories Act, 1921-22, and its amendments relating to payment for holidays, half-holidays, and Sundays shall apply.

For the purposes of this subclause, Anniversary Day shall be deemed to be a holiday under the Factories Act, 1921-22, and its amendments.

(b) In districts where Anniversary Day is not observed as a holiday, another day, to be mutually agreed upon between the employer and the union, shall be allowed in lieu thereof.

Annual Holiday

13. Annual holidays shall be allowed in accordance with the provisions of the Annual Holidays Act, 1944.

Accommodation

14. (a) Accommodation to the satisfaction of the Inspector of Factories shall be provided for the workers to change and dry their clothes and have their meals.

(b) Washing facilities with hot and cold water shall be provided for the use of workers.

Accidents

15. A modern first-aid emergency case, fully equipped, shall be kept in a convenient and accessible place; and where ammonia is in use a suitable respirator shall be kept available.

Meal-times

16. A worker shall not be called upon to work for more than four and a quarter hours continuously without an interval of at least three-quarters of an hour for a meal.

Disputes and Matters not provided for

17. Any dispute in connection with any matter not provided for in this award shall be settled between the particular 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 local Conciliation Commissioner, who may either decide the 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 upon Premises

18. For the purposes of this award any accredited representative of the New Zealand Dairy Factories and Related Trades' Employees' Industrial Union of Workers may, at all reasonable times, enter upon the premises of any employer bound by this award.

Under-rate Workers

19. (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.

Workers to be Members of Union

20. (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 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) It shall be a breach of this award for any adult worker to accept employment and work under this award for a period of fourteen days or more without becoming a financial member of the workers' union.

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

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

Application of Award

21. 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

22. This award shall operate throughout the Northern, Taranaki, Wellington (outside Twenty-mile Radius of the General Post-office), Nelson, Westland, Canterbury, and Otago and Southland Industrial Districts, but shall not apply to the Wellington City Corporation.

Term of Award

23. 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 7th day of May, 1945.

[L.S.]

A. TYNDALL, Judge.

MEMORANDUM

The principal matters settled by the Court related to hours of work, shift-work, wages and classifications, special clothing and footwear, sick-pay, holidays, accommodation, meal-times, right of entry, and date of coming into force of the award.

The hours of work in the case of motor-drivers have been reduced from forty-four per week to forty per week, while for all other classes of workers they have been reduced from forty-two per week to forty per week. The rates of wages for motor-drivers have been adjusted, taking into account the reduction in hours and the rates payable under the general Motor and Horse Drivers' award, as well as the Court's recent pronouncement on hourly rates.

The rates for other classes of workers have been increased in line with other recent decisions of the Court, but no allowance has been made for the reduction in hours from forty-two to forty, for the reason that the base rate of £4 10s. prescribed in the expired award is the same as the minimum rate which has applied in general during the past few years to factory workers who have been required to work forty hours a week only.

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

A. TYNDALL, Judge.

DISSENTING OPINION OF MR. MONTEITH

I dissent totally from this award. The wages awarded start at £5, and with the two general orders added, less deductions, workers on this rate will receive a cash payment of £4 16s. 3d. each week to live on. I am also not in agreement with several other clauses, hence my total dissent.

NEW ZEALAND (EXCEPT MARLBOROUGH AND WELLINGTON
TWENTY-MILE RADIUS) **MILK PASTEURIZING AND
BOTTLING FACTORIES' EMPLOYEES.**—APPLICATION FOR
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 the Economic Stabilization Emergency Regulations 1942; and in the matter of an application for amendment of the New Zealand (except Marlborough and Wellington Twenty-mile Radius) Milk Pasteurizing and Bottling Factories' employees' award, dated the 7th day of May, 1945, and recorded in 45 Book of Awards 465.

JUDGMENT OF THE COURT, DELIVERED BY TYNDALL, J.

THE Court has before it an application to amend the New Zealand (except Marlborough and Wellington Twenty-mile Radius) Milk Pasteurizing and Bottling Factories' Employees' award (45 Book of Awards 465).

The application is made pursuant to Regulation 39A of the Economic Stabilization Emergency Regulations, Amendment No. 5 (Serial No. 1945/6). Regulation 39A (1) reads:—

Upon application made by any party to any award or industrial agreement that is in force on the commencement of this regulation, the Court may amend the provisions of the award or industrial agreement relating to rates of remuneration in such manner as the Court thinks fit for the purpose of restoring or preserving a proper relationship with the rates of remuneration of other workers or classes of workers (whether fixed by any award, apprenticeship order, or industrial agreement or otherwise).

The date of commencement of the regulation was 13th February, 1945. The award which is the subject of the application for amendment came into force on 7th May, 1945. The award was therefore not in force on the commencement of the regulation.

The Court is consequently of the opinion that it has no jurisdiction to consider the application.

Dated this 4th day of December, 1945.

[L.S.]

A. TYNDALL, Judge.
