

**NEW ZEALAND HORTICULTURAL AND GARDENING
INDUSTRY—APPRENTICESHIP ORDER**

In the Court of Arbitration of New Zealand.—In the matter of the Apprentices Act, 1948; and in the matter of the conditions of apprenticeship in the Horticultural and Gardening Industry.

WHEREAS application has been made to the Court by the New Zealand Horticulture and Gardening Apprenticeship Committee for an apprenticeship order governing the conditions of apprenticeship in the horticultural and gardening industry for the whole of New Zealand: And whereas the Court of Arbitration has delegated its powers in respect of

the said application to Douglas James Dalglish, a Deputy Judge of the Court: And whereas the said Deputy Judge has heard the employers, workers, and other persons concerned, and has considered the recommendations made by the said Committee: And whereas the said Deputy Judge has deemed it expedient to make an order under section 13 of the Apprentices Act, 1948, prescribing wages, hours, and other conditions of employment to be incorporated in contracts of apprenticeship in the said industries for the whole of New Zealand, and prescribing such other matters and things as the Court of Arbitration is required and authorized by the said section or elsewhere to prescribe: Now, therefore, the said Deputy Judge doth hereby order and prescribe as follows:—

Industry to which Order Applies

1. The industry to which this order shall apply is the horticultural industry, in the following branches: nursery work and gardening; hereinafter called "the industry."

Application of Order

2. The provisions of this order shall apply to all employers of apprentices in the industry throughout New Zealand (whether bound by an award or agreement relating to the industry or not), and to all apprentices employed by such employers in the industry, and to all contracts of apprenticeship between such employers and apprentices, whether or not such contracts have been reduced to writing. (An "agreement" is an industrial agreement filed under section 28 of the Industrial Conciliation and Arbitration Act, 1925, or an agreement filed under section 8 of the Labour Disputes Investigation Act, 1913.)

Prior Consent of Committee

3. (a) No employer shall engage any person as an apprentice on probation or enter into any contract of apprenticeship without the prior consent in writing of the appropriate local Apprenticeship Committee (hereinafter called "the local Committee") or, where there is no such Committee, of the District Commissioner of Apprenticeship (hereinafter called the "District Commissioner").

(b) An employer, before taking an apprentice to learn a branch of the industry, shall first satisfy the Committee or the District Commissioner, as the case may be, that he is a suitable employer, is in a position to continue in business

as an employer, and has the facilities for properly teaching him the branch or branches of the industry to which he is apprenticed.

(c) No employer shall be permitted to employ apprentices in a branch of the industry if he is not himself a journeyman or does not employ a journeyman. For the purposes of this order a "journeyman" is a nurseryman or gardener who has served an apprenticeship of five years, or who has been employed and paid as a nurseryman or gardener for not less than five years, or who is the holder of a diploma under the Royal New Zealand Institute of Horticulture Act, 1927.

Contracts to be Registered

4. Every contract of apprenticeship, and every alteration thereof, shall be registered with the appropriate District Commissioner within a period of twenty-eight days after the commencement of the employment of the apprentice (in the case of an original contract) or within fourteen days after the making of the alteration (in the case of an altered contract). If the contract or alteration is not presented for registration as aforesaid, the parties thereto shall be severally liable to a fine not exceeding £10 under the Apprentices Act, 1948.

Minimum Age

5. The minimum age at which a person may commence to serve as an apprentice shall be fifteen years.

Term of Apprenticeship

6. (a) For an apprentice commencing before his eighteenth birthday who has not obtained a School Certificate, the term of apprenticeship shall be five years, divided into ten six-monthly periods.

(b) For an apprentice commencing before his eighteenth birthday who has obtained a School Certificate, the term of apprenticeship shall be four and a half years, divided into nine six-monthly periods.

(c) For an apprentice commencing on or after his eighteenth birthday, the term of apprenticeship shall be four years, divided into eight six-monthly periods.

(d) All holidays provided for in the award or agreement referred to in clause 9 of this order which are taken by an apprentice shall be deemed to be time served under his contract.

(e) All time lost by an apprentice through sickness in excess of three months in any period of his apprenticeship shall be made up before such apprentice shall be considered

to have entered upon the next succeeding period of his apprenticeship, and the total period of his apprenticeship shall be extended by a period equivalent to such lost time.

(f) Where the New Zealand Apprenticeship Committee is of the opinion that time served in a related occupation prior to the date of application for engagement of an apprentice should be credited to the apprentice, it may, on application made to it by or through a local Committee, shorten the term by not more than one year.

(g) Every apprentice whose contract is in force at the time of coming into operation of this order and whose term is hereby completed, or shortened so that he will have less than one year to serve, shall, notwithstanding the provisions of subclause (a) above, serve six months over the period of five years, receiving not less than journeyman's rates of pay for that six months.

Period of Probation

7. The period of probation to be prescribed in any contract of apprenticeship to enable the employer of any apprentice to determine his fitness shall not exceed three months.

Proportion

8. (a) An employer shall be entitled to apply for permission to engage an apprentice when a journeyman has been employed for at least twelve months.

(b) The proportion of apprentices to journeymen shall be not more than one apprentice to every journeyman employed for the six months immediately preceding the date of application.

(c) For the purpose of this order an employer who himself works substantially at a branch of the industry shall be entitled to count himself as a journeyman.

(d) The powers and discretions provided for in section 29 of the Apprentices Act, 1948, may be exercised by the District Commissioner and the local Committee, notwithstanding that the employer to whom it is proposed to transfer the apprentice is already employing the full quota of apprentices as determined by this order.

Wages

9. (a) The minimum weekly rates of wages payable to apprentices shall be the undermentioned percentages of an amount equal to forty times the minimum hourly wage rate for qualified nurserymen (or gardeners) in the branch of the industry to which the apprentice is apprenticed as prescribed by the award or agreement relating to the employment of

such nurserymen (or gardeners) for the time being and from time to time in force in the establishment in which the apprentice is employed or, if there is no such award or agreement, as prescribed by the award or agreement relating to the employment of such nurserymen (or gardeners) for the time being and from time to time in force in an establishment of a similar class in a locality including the City of Wellington:—

	For Apprentices Serving a Five- year Term. Per Cent.	For Apprentices Serving a Four- and-a-half-year Term. Per Cent.	For Apprentices Serving a Four- year Term. Per Cent.
First six-monthly period ..	23	29	35
Second six-monthly period ..	29	35	41
Third six-monthly period ..	35	41	47
Fourth six-monthly period ..	41	47	53
Fifth six-monthly period ..	47	53	59
Sixth six-monthly period ..	53	59	65
Seventh six-monthly period ..	59	65	71
Eighth six-monthly period ..	65	71	77
Ninth six-monthly period ..	71	77	..
Tenth six-monthly period ..	77

(b) Every apprentice who shall have obtained the Junior Certificate issued under the Royal New Zealand Institute of Horticulture Act, 1927, shall, upon production of such certificate to his employer, be paid at the rate of not less than 3s. 6d. a week in excess of the minimum rate prescribed in subclause (a) of this clause; and every apprentice who shall have obtained the Intermediate Certificate so issued shall, upon production of such certificate to his employer, be paid at the rate of not less than 5s. 6d. a week in excess of the minimum rate so prescribed.

Technical Classes

10. If ordered to do so by the New Zealand Apprenticeship Committee, apprentices shall be required to attend classes at a school working on a syllabus approved by that Committee.

Apprentices from Overseas

11. A person who has served part of his apprenticeship to the industry outside of New Zealand may complete the term of apprenticeship herein provided for with an employer in New Zealand on furnishing to the District Commissioner a certificate from his former employer and/or such other evidence (if any) as the District Commissioner and the local

Committee may require in order to show the time served by such person as an apprentice outside of New Zealand. The District Commissioner may refuse to register any contract of apprenticeship entered into under the provisions of this clause until such evidence has been furnished to the satisfaction of himself and the Committee. Any party affected by the decision of the District Commissioner may, within fourteen days, appeal to the Court, whose decision shall be final and conclusive.

Deductions by Employer

12. An employer shall be entitled to make a rateable deduction from the wages of an apprentice for any time lost through sickness in excess of five working-days in any period or any time lost through the default of the apprentice. Accidents not arising out of and in the course of the employment shall be deemed to be sickness, and the provisions of this order relating to the payment of and deductions from wages and making up time in case of sickness shall apply also. The employer may require the production of a medical certificate before payment is made for time lost through sickness or accident.

Hours

13. The hours worked by an apprentice shall, subject to the provisions of any statute, be those normally worked by journeymen (as defined in clause 3 (c) of this order) as prescribed by the award or agreement referred to in clause 9 of this order.

Overtime

14. (a) An employer shall not require or permit an apprentice under eighteen years of age to work overtime more than five hours in any one week.

(b) An employer shall not require or permit an apprentice to work overtime on any night on which he has to attend classes at a school or approved institution.

(c) Overtime shall be calculated in the manner prescribed for journeymen in the award or agreement referred to in clause 9 of this order and at the wage-rate received by the apprentice: Provided that the minimum payment shall be 1s. 9d. an hour in any case.

Conditions of Award to Apply

15. The conditions of the award or agreement referred to in clause 9 of this order, in so far as they relate to the method and time of payment of wages, holidays, travelling-time, suburban work, country work, meal-money, and other matters

(other than membership of union) relating generally to the employment and not in conflict with this order, shall apply to apprentices.

Tools

16. The employer shall provide the tools required by the apprentice, who shall keep them in good order, reasonable wear-and-tear excepted. Tools proved to be wilfully lost or negligently damaged by an apprentice shall be replaced by him.

Contracts to Accord with Act

17. Every contract of apprenticeship shall accord with the provisions of the Apprentices Act, 1948, and with this order, and shall make provision, either expressly or by reference to the said Act, or this order, for the several matters provided for therein, and shall not contravene the provisions of any Act relating to the employment of boys or youths. In default of such provision being made in any such contract of apprenticeship or in so far as such provision is defective or ambiguous, the contract shall be deemed to provide that the conditions of apprenticeship shall be not less favourable to the apprentice than the minimum requirements of this order.

Obligations of Apprentice

18. (a) It shall be an implied term in every contract of apprenticeship that the apprentice will diligently and faithfully obey and serve the employer as his apprentice for the prescribed term, that he will not absent himself from the employer's service during working-hours without the leave of the employer or except as permitted by this order, and that he will not commit or permit or be accessory to any hurt or damage to the employer or his property, nor conceal any such hurt or damage if known to him, but will do every thing in his power to prevent the same.

(b) The apprentice shall keep a diary of the work he has done, with notes of other items of horticultural interest, and shall submit it to his employer for inspection at intervals of not more than three months. The local Committee, or, where there is no Committee, the District Commissioner shall also be entitled to inspect the diary of the apprentice from time to time.

Obligations of Employer

19. (a) It shall be an implied term in every contract of apprenticeship that the employer will during the prescribed term, to the best of his power, skill, and knowledge, train

and instruct the apprentice, or cause him to be trained and instructed, as a competent journeyman in the branch or branches of the industry to which he is apprenticed in accordance with the provisions of the Apprentices Act, 1948, and of this order and any amendments thereof.

(b) In every contract of apprenticeship made after the coming into force of this order there shall be included the title of the person who is to undertake or supervise the actual training of the apprentice. The responsibility of the person so included by his title shall be limited to actual training or supervision of training, and shall not be held to relieve the employer, as contracting party, of his contractual responsibilities.

Premiums Forbidden

20. No premium in respect of the employment of any person as an apprentice shall be paid to or received by an employer, whether such premium is paid by the person employed or by any other person.

Special Contracts

21. The provisions of this order shall not necessarily apply in the case of a special contract of apprenticeship entered into under the provisions of section 25 of the Apprentices Act, 1948.

Revocation of Orders

22. The following apprenticeship orders and any amendments thereto are hereby revoked as from the date of coming into force of this order:—

Wellington Industrial District Gardeners' apprenticeship order, dated 11th July, 1941, and recorded in 41 Book of Awards 865.

Canterbury Nursery and Landscape Gardeners' apprenticeship order, dated 22nd March, 1926, and recorded in 26 Book of Awards 136.

Date of Operation

23. This order shall operate and take effect as from the 1st day of February, 1949.

Dated this 22nd day of December, 1948.

D. J. DALGLISH, Deputy Judge,
acting in pursuance of an order of delegation of the
Court of Arbitration.