

OAMARU BOROUGH COUNCIL **LABOURERS**—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 Otago Labourers and Related Trades' Industrial Union of Workers (hereinafter called "the union") and the undermentioned Council and Trust (hereinafter called "the employers") :—

Oamaru Borough Council, Oamaru.

Oamaru Cemetery Trust, 147 Thames Street, Oamaru.

THE Court of Arbitration of New Zealand (hereinafter called "the Court"), having taken into consideration the terms of settlement arrived at in the above-mentioned dispute and forwarded directly to the Court pursuant to the provisions of section 3 of the Industrial Conciliation and Arbitration Amendment Act (No. 2), 1939, 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 31st day of March, 1951, 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 September, 1949.

[L.S.]

A. TYNDALL, Judge.

## SCHEDULE

### *Hours of Work*

1. (a) Unless otherwise provided herein, an ordinary week's work shall be forty hours, to be worked between 7.30 a.m. and 5 p.m. on five days of the week, Monday to Friday, both days inclusive. An ordinary day's work shall not exceed eight hours.

(b) Workers shall not be required to work longer than five hours without an interval for a meal. The ordinary interval shall be one hour, but by agreement between the foreman and the workers concerned it may be reduced to not less than thirty minutes.

### *Wages*

2. The following shall be the minimum rates of wages:—

(a) Labourers, including men on pick-and-shovel work, cleaning drains, sweeping and cleaning streets, cutting grass, road and path formation (other than tarring), screening materials, and work of a similar nature: £7 2s. 2d. per week.

(b) Labourers engaged temporarily and employed on an hour-to-hour basis: 3s. 6 $\frac{1}{2}$ d. per hour.

(c) Quarry foreman: £8 9s. 6d. per week. Other workers in quarry: £7 7s. 2d. per week.

A worker employed in the quarry for part of any week and employed for the remainder of the week on other work shall be paid the quarry rate for that week.

(NOTE.—All quarry workers', including foreman's, rates include an allowance to enable the employee to purchase his own boots and overalls.)

(d) Labourers employed in the reserves or forestry or gardens departments: £7 2s. 2d. per week.

(e) Gardeners: £7 9s. 2d. per week.

"Gardener" shall mean an employee who holds any recognized diploma in horticulture or who has served three years in the gardens and has proved his ability to the satisfaction of the Superintendent of Gardens and Reserves.

(f) Cemetery workers: £7 7s. 2d. per week for a week of forty hours: Provided that in order to enable this essential service to be efficiently maintained, the said forty hours may be worked for eight hours per day on any five days, Monday to Saturday inclusive. Any work done on the sixth day shall be paid for at the overtime rates specified in this award, and any work done on Sundays shall be paid for at double time rates. Cemetery workers shall be paid 10s. for each disinterment or reinterment, in addition to ordinary rates. If required to work on Sundays or holidays, a minimum of four hours shall be paid for each time the workers are called out.

(g) *Extras*.—Workers employed upon any of the following jobs shall, while so employed, be paid the following extra rates:—

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| (1) Quarry workers (other than the quarry foreman), when working 10 feet or more above the quarry floor .. .. .   | 3d. per hour.  |
| (2) Men, other than gardeners, employed topping or pruning trees or cutting back branches, at a height of 10 feet or over from the ground, or employed marking out or planting beds .. .. .                             | 1½d. per hour. |
| Workers shall be provided with suitable gloves when working amongst thorny bushes.  |                |
| (3) Workers employed carrying tar (other than in closed containers), or working with tar, or laying tar macadam, or working with tar distillate weed-killer, and workers employed in pre-heating or boiling tar .. .. . | 2d. per hour.  |
| (4) The nozzleman on the tar sprayer  | 5s. per day.   |
| (5) Men engaged on nightsoil work ..  | 3d. per hour.  |
| (NOTE.—Men while so engaged shall be supplied with suitable oilskins, also an acetylene-lamp and carbide.)  |                |
| (6) Men employed in lifting household refuse .. .. .  | 4s per day.    |
| The extra rate includes an allowance to enable an employee to purchase his own overalls.  |                |
| (7) Workers employed at cleaning the liquefying tank at Orwell Street   | 10s per day.   |

- (8) Workers engaged as drainlayers or watermen . . . . . 4d. per hour.  
 Stand-by watermen shall be rostered so that they shall have one complete week-end on duty and one week-end off, the system of rostering adopted to be decided on by the Borough Engineer. Stand-by watermen shall receive a further 1d. per hour extra for stand-by duty
- (NOTE.—The extra rate includes an allowance for overalls.)
- (9) Men employed in feeding concrete-mixers, or handling, mixing, or spreading wet concrete . . . . . 1½d per hour.
- (10) Racemen on viaducts . . . . . 3d. per hour.  
 Length-men on race using their own cars on the employer's business at the employer's request shall be paid 6d. per mile.
- (11) Gangers or leading hands, while supervising . . . . . 1s. 6d. per day.  
 A "ganger" or "leading hand" is a worker in charge of three or more men.
- (12) Workers employed in shafts or trenches 6 feet or more in depth—  
 Up to 12 feet in depth . . . . . 1½d. per hour.  
 Over 12 feet in depth . . . . . 2d. per hour.
- (13) Workers other than gardeners or cemetery workers operating the following power-driven tools: gads, rippers, rammers, jack hammers, rotary hoes, motor-mowers, or tools of a similar nature . . . . . 1½d. per hour.
- (14) Employees carrying tools upon or otherwise using their bicycles during working-hours . . . . . 4d. per day.

#### *Payment of Wages*

3. (a) Wages shall be paid fortnightly not later than Thursday, and in cash, and shall be paid in the employer's time.

(b) No deduction shall be made from the wage of weekly workers except for time lost through sickness or default of the worker.

*Overtime*

4. (a) All time worked outside of or in excess of the hours hereinbefore mentioned shall be paid for at the rate of time and a half for the first two hours and double time thereafter.

(b) All work done on Saturdays and Sundays shall be paid for at the rate of double ordinary time.

*Holidays*

5. (a) Workers who have been employed at any time during the fortnight ending on the day on which the holiday occurs shall receive and be paid for the following holidays: New Year's Day, 2nd January, Anniversary Day, Good Friday, Easter Monday, Anzac Day, the birthday of the reigning Sovereign, Labour Day, Show Day, Christmas Day, and Boxing Day. When any of the above-mentioned holidays falls on a Saturday or Sunday, the next succeeding working-day or days shall be observed.

(b) Work done on any of the above holidays shall be paid for at double time rates.

(c) Each employee upon the completion of twelve months' service shall receive a fortnight's holiday on full pay: Provided that where a worker is dismissed or terminates his services he shall receive and be paid for such proportion of his service: Provided, further, that the annual holiday shall be three weeks as in the case of stand-by watermen and pumpmen.

(d) Periods of sickness or accident or standing down at the direction of the employer shall not debar the worker from receiving both statutory and annual holiday pay.

*Wet Places*

6. (a) When workers, other than racemen, are working in a wet place (other than rain) or foul air, six hours shall constitute a day's work, eight hours to be paid for; half an hour shall be allowed for crib without any deduction of pay.

(b) A "wet place" shall mean a place where workers are standing in water 2 in. or more in depth or where water other than rain-water is dripping on them; but if the employer shall provide the workers with overalls or gum boots, or both, the place shall not be deemed to be a wet place unless, owing to the depth of the water or soakage, the boots or overalls supplied do not adequately protect the worker.

(c) Ten minutes shall be allowed to wash and change gum boots. Where the worker wears gum boots he shall be paid 2d. per hour in addition to the ordinary rate of pay.

*Accommodation, Sanitation, and General*

7. (a) The employer shall provide accommodation at the Council yards, the gardens, and the quarry to enable workers to change their clothes, and shall also provide sanitary accommodation for the workers.

(b) Workers employed sealing or resealing with tar, or boiling tar, or bitumen laying, patching, spreading, spraying, or carrying bituminous compound or tar distillate weed-killer, shall be allowed five minutes before meals and ten minutes at knock-off time to wash and change. They shall be supplied with coconut-oil or other cleanser not harmful to the skin, and shall be supplied with clogs or boots, overalls, and goggles whilst so employed.

(c) When workers are working at open sewers or in water, flood-water, &c., or foul air, six hours shall constitute a day's work, eight hours to be paid for. Half an hour shall be allowed for crib time, and two breaks of fifteen minutes each shall be allowed during each six hours.

(d) Overalls shall be provided for racemen when asked to work on viaducts.

(e) When workers are required to work in rain, oilskin coats, sou'-westers, and leggings shall be supplied to such workers.

*Meal-money and "Smoke-oh"*

8. (a) When workers are called upon to work overtime after 5.30 p.m. and cannot reasonably get home for a meal, the employer shall provide a substantial meal on the job or, alternatively, shall pay meal-money at the rate of 2s. 6d. a meal.

(b) An interval of ten minutes shall be allowed for morning and afternoon tea, to be taken as soon as practicable after 10 a.m. and 3 p.m.

*Variation of Duties*

9. Nothing in this award shall prevent any worker covered hereby from doing work covered by any other award: Provided that, while so engaged, he shall be paid at least the rate which is fixed in such other award.

*Tools*

10. All tools shall be provided by the employer.

*Accidents*

11. A first-aid emergency outfit, suitably equipped, shall be maintained by the employer in a place convenient and accessible to the workers.

### *Country Work*

12. (a) "Country work" shall be deemed to mean work which has to be done outside the boundary of the city, town, or borough in which the employer's main office is situated and which necessitates the worker lodging elsewhere than at his usual place of residence.

(b) The employer shall convey the worker free of charge or pay his fare to and from country work once every three months during the continuance of 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.

(c) Time occupied in travelling to a job for the first time, or from and back to a job if recalled by the employer, or from the job on completion of the worker's employment on the job, shall be paid for at the ordinary rates; but no worker shall be paid more than an ordinary day's wage for any day occupied by him in travelling, although the hours occupied may exceed eight, unless he is on the same day occupied in working for his employer: Provided that any worker called upon to travel more than four hours on a Saturday shall be paid for eight hours.

(d) The employer shall either provide the worker while on country work with suitable board and lodging or, in lieu thereof, pay him for each working-day the sum of 7s.: 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: Provided, further, that when the employer provides accommodation the payment in lieu of board shall be 6s. for each working-day.

### *Union Representatives*

13. For the purpose of securing the efficient operation of this award in accordance with section 19 of the Industrial Conciliation and Arbitration Amendment Act, 1936, the union's representatives shall be allowed full access to all jobs covered by this award in order to interview any worker, but not so as to interfere unreasonably with the employer's business.

*Job Stewards*

14. Employees appointed by the union to act as "job stewards" shall be allowed to collect union subscriptions during the actual paying-out of wages on the job on which the steward is employed.

*Disputes Committee*

15. Any dispute in connection with any matter not provided for in this award shall be settled by the employer and a representative of the union, and in default of any agreement being arrived at, then such matter shall be referred to the local Conciliation Commissioner, who shall either decide the matter or refer the same to the Court. Either side, if dissatisfied with the ruling of the Commissioner, may appeal to the Court upon giving notice of such appeal to the other party within fourteen days after such decision shall have been communicated to the dissatisfied party.

*Workers to be Members of Union*

16. (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*

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.

#### *Scope of Award*

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

#### *Term of Award*

19. This award, in so far as it relates to wages, shall be deemed to have come into force on the 1st day of June, 1949, 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 31st day of March, 1951.

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 September, 1949.

[L.S.]

A. TYNDALL, Judge.

## MEMORANDUM

The terms of settlement submitted to the Court contained provisions dealing with pumpmen and yardmen. Subsequent correspondence with the parties disclosed the nature of the duties performed by these workers. A perusal of the registered rules of the Otago Labourers and Related Trades' Industrial Union of Workers does not satisfy the Court that the workers in question are eligible for membership of the union, and consequently the Court has deleted the references to them.

Wages have been made payable retrospectively, in accordance with the agreement of the parties.

A. TYNDALL, Judge

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