

WELLINGTON CITY COUNCIL **CLERICAL AND OTHER OFFICERS**—AMENDMENT  
OF AWARD

In the Court of Arbitration of New Zealand.—In the matter of the Industrial Conciliation and Arbitration Act, 1925, and the Economic Stabilization Regulations 1952; and in the matter of the Wellington City Council Clerical and Other Officers award, dated the 28th day of February 1952, and recorded in 52 Book of Awards 49.

IN pursuance and exercise of the powers vested in it by the Economic Stabilization Regulations 1952, and of every other power in that behalf thereunto enabling it, and upon application made under regulation 9 (1) of the said regulations by the Wellington, Marlborough, Westland, Nelson, and Taranaki Local Bodies' Officers Industrial Union of Workers, party to the above-mentioned award, and upon hearing the duly appointed representatives of the parties, this Court, for the purpose of giving effect to the pronouncement made by it on the 12th day of July 1952, doth hereby order as follows:—

1. That the said award shall be amended in the manner following:—

(1) By deleting paragraph (ii) of clause 1 (Application of Award) and substituting the following paragraph:—

“(ii) Male officers in receipt of a salary of more than £735 per annum, apart from overtime, and female officers in receipt of a salary of more than £460 per annum, apart from overtime.”

(2) By deleting subclauses (a) and (b) of clause 3 (Rates of Remuneration) and substituting the following subclauses:—

“(a) The minimum rates of pay for classified positions shall be those set out in the following Schedule ‘A’:—

SCHEDULE “A”

Classified Position.	Minimum Salary Per Annum.		
	£	s.	d.
Male junior with School Certificate .....	258	15	0, then by Grade M.
Male junior with University Entrance .....	293	5	0, then by Grade M.
Female with School Certificate or with Junior Typing Examination .....	236	18	0, then by Grade F.
Female with University Entrance or with Senior Typing Examination .....	264	10	0, then by Grade F.
Collector of Accounts .....	532	9	0
Token Distributor (Milk) .....	561	4	0
Token Receiver (Milk) .....	503	14	0
Traffic Clerk and Inquiry Clerk (Tramways) .....	561	4	0
Female Bookkeeper Machine-operator (Junior) .....	304	0	0
Branch Librarian (Male) .....	537	5	0—£552.
<i>Technical and Professional</i>			
Draftsman .....	607	4	0—£647 9s. after three years.
Female Plan-tracer .....	300	3	0, then by Grade F.
Plan Registrar .....	503	14	0
Dangerous Goods Inspector .....	575	0	0
First Grade Senior Building Inspector, Plumbing, or Sanitary Inspector .....	607	4	0—£624 9s.
Second Grade Sanitary Inspector (Registered Plumber and R.S.I.) .....	575	0	0—£624 9s.
Second Grade Building, Plumbing, or Sanitary Inspector .....	575	0	0—£624 9s.
Water Inspector .....	532	9	0
Ranger (Cattle or dogs) .....	517	10	0
Milk Inspector .....	575	0	0—£598
First Grade Traffic Inspector .....	598	0	0
Second Grade Traffic Inspector (after five years) .....	575	0	0
Second Grade Traffic Inspector (after two years and efficiency tests) .....	517	10	0
Second Grade Traffic Inspector .....	488	15	0

*General*

Assistant Sexton (if keeping records) .....	589	19	0
Messengers and Attendants .....	476	2	0
Female Convenience Attendant .....	358	16	0
Mayor's Chauffeur, ordinary salary .....	476	2	0
Water Meter Reader .....	476	2	0
First-class Chainman .....	503	14	0
Second-class Chainman .....	476	2	0
Morgue Attendant (female) .....	358	16	0
Foreman-in-charge .....	561	4	0-£589 19s.
Assistant Overseers .....	607	4	0-£618 14s.
Storekeeper's Assistant .....	476	2	0
Storekeeper (small store) .....	503	14	0
Storekeeper (large store)—3 or more men .....	537	5	0-£565.
Floorman (Milk) .....	589	19	0
Dairy Foreman, Wellington (Milk) .....	589	19	0
Storekeeper-in-charge (Milk) .....	537	5	0-£565.
Rounds Foreman (Milk).....	589	19	0
Motor Transport Foreman (Milk) .....	589	19	0
Senior Floorman (Milk) .....	607	4	0
Foreman, Rahui Factory (Milk) .....	589	19	0
Tramway Workshop Foreman .....	607	4	0
Tramway Cable Foreman .....	589	19	0
Tramway Permanent Way Foreman .....	589	19	0
Tramway Car Shed Foreman .....	589	19	0
Bus Garage Foreman .....	589	19	0
Motor Mechanic Foreman .....	589	19	0
Lines Foreman .....	589	19	0
Electric Workshop Foreman .....	589	19	0
Electric Meter Reader .....	479	5	0
Electric Meter Reader (after 4 years) .....	546	5	0
Electric Meter Maintenance Foreman .....	589	19	0

“(b) The remuneration for clerical, technical, and professional officers whose salaries are not limited by their conditions of appointment or by the maximum fixed for any position shall be in accordance with Grade M for males and Grade F for females in which the consecutively numbered steps represent salaries which shall be increased yearly.

“ Except where otherwise specified the following annual salary rates shall apply and be paid to male employees :—

## GRADE “ M ”

Step.	Salary.			Step.	Salary.		
	£	s.	d.		£	s.	d.
1	230	0	0	9	503	14	0
2	258	15	0	10	532	9	0
3	293	5	0	11	561	4	0
4	338	2	0	12	589	19	0
5	389	17	0	13	607	4	0
6	425	6	0	14	624	9	0
7	459	16	0	15	647	9	0
8	485	2	0	16	670	9	0

“ Males with School Certificate commence at the second year of service scale.

“ Males with University Entrance Certificate commence at third year of service scale.

“ Except where otherwise specified the following annual salary rates shall apply and be paid to female employees:—

GRADE “ F ”							
Step.	Salary.			Step.	Salary.		
	£	s.	d.		£	s.	d.
1	218	10	0	6	356	10	0
2	236	18	0	7	381	16	0
3	264	10	0	8	407	2	0
4	300	3	0	9	422	1	0
5	330	1	0				

“ Females with School Certificate or Junior Typing Examination commence at second year of service scale.

“ Females with University Entrance or Senior Typing Examination commence at third year of service scale.”

(3) By deleting clause 4 (Increase in Rates of Remuneration).

(4) By deleting from the undermentioned clauses the figures and symbols set out in the first column hereunder and substituting in each case the figures and symbols respectively set out in the second column hereunder:—

	<i>First</i>	<i>Second</i>
	<i>Column.</i>	<i>Column.</i>
Clause 3 ( <i>h</i> )	5s.	5s. 9d.
Clause 3 ( <i>i</i> )	5s.	5s. 9d.
Clause 6 ( <i>c</i> )	3s.	3s. 6d.
Clause 6 ( <i>d</i> )	6s.	6s. 11d.

2. That this order shall be deemed to have come into force on the 1st day of September 1952.

Dated this 31st day of March 1953.

[L.S.]

W. F. STILWELL, Judge.

#### MEMORANDUM

In making this amendment the Court has revoked clause 4 of the award applying this Court's general order of the 30th January 1951. This conforms with the intimation in the Court's standard wage pronouncement that the effect of the general order and the provisions in awards and agreements applying the order will be revoked as each amendment is made.

As clause 1 of the award contains “ salary bars ” or provisions defining the coverage of the award by reference to specified rates of remuneration it is necessary for the Court to consider what adjustments, if any, should be made to the clause.

The wording of clause 1, particularly the words in parentheses “ (exclusive of the effect of clause 4 of this award) ” is unusual and the clause has been under consideration recently by the Court in a case stated from the Magistrates Court.

The question of what adjustments should be made by the Court in giving effect to its pronouncement is one which has presented peculiar difficulties to the Court. It is obvious that some alteration to the clause is necessary otherwise with the revocation of clause 4 and consequential changes in the salary rates in clause 3 the final rates in Grades “ M ” and “ F ” are more than the salary bar figure of £650 for males and £408 for females.

Section 80 of the Industrial Conciliation and Arbitration Act, 1925, provides:—

The Court shall in all matters before it have full and exclusive jurisdiction to determine the same in such manner in all respects as in equity and good conscience it thinks fit.

After a very careful consideration of all the circumstances, a majority of the Court is of the opinion that the appropriate and equitable increases to be made is for the figure of £650 for male officers to be altered to read £735 and for the figure of £408 for female officers to be altered to read £460.

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

W. F. STILWELL, Judge.

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#### DISSENTING OPINION OF MR. HEWITT

The Court has decided by a majority to fix the male salary bar at £735 and the female salary bar at £460. With this action I disagree for the following reasons:—

- (a) Because in my opinion such action is not in harmony with the regulations under which the action has been taken.
- (b) Because the decision has the effect of wrecking the *status quo* in that it greatly extends the existing scope of the award.
- (c) Because the decision ignores the effect of an opinion of the Court given in respect of this same salary bar as late as 10th March last. Nor is it in line with a decision dated 23rd December 1952 upon application made to further amend certain awards. (In the latter case it is fair to say that while the overall position is similar there are not all the complications arising herein.)
- (d) Because in my opinion the decision goes beyond giving effect to the standard wage pronouncement.

“ For the purpose of giving effect ” to a standard wage pronouncement the Court is, by virtue of regulation 11 (1) and (3) of the Economic Stabilization Regulations 1952—a new regulation—required to treat any salary bar as a rate of remuneration; in short “ Where the Court . . . increases or reduces any rates of remuneration determined by an award . . . the Court shall make a corresponding increase or reduction ” in the salary bar, if any. The words quoted are the words of the regulations and are important.

The highest prescribed rate of remuneration in this award was, at the 28th February 1952 (the commencing date of the current award), the top rate of Grade “ M ”, £583 plus 15 per cent.—the addition of the 15 per cent. by means of clause 4 being merely the most convenient method of applying a general increase—and it cannot be denied that the actual *rate of remuneration determined by the award* for a worker at the top of Grade “ M ” was at that date £670 9s. (The Court makes reference in its memorandum to the revoking of clause 4. The effect of that clause has been replaced by the incorporation in each individual wage rate of in most instances an equivalent sum.) In giving full effect to its standard wage pronouncement in this case the Court has therefore neither *increased nor decreased* the aforementioned rate of remuneration. In my opinion regulation 11 (3) of the regulations should not be invoked at all as the initial requirement of the clause has not been fulfilled. Further to this,

however, the words used in regulation 11 (3) are "corresponding increase". One definition of "correspond" is given in the Concise Oxford Dictionary as "agree in amount". Now the highest prescribed rate of remuneration in the award prior to its amendment was without doubt £670 9s. The rate after amendment is identical—£670 9s., but the salary bar has been raised to £735. In other words, having decided rightly or wrongly to invoke regulation 11 (3) the Court then decided that the amount "corresponding" to *nil* is £64 11s.

(The Court has considered in certain instances that a corresponding increase may be related to the salary bar figure as at 1st June 1949. Here it is relevant to quote from a decision of the Court delivered as late as 23rd December last in the matter of the New Zealand (except Nelson and Westland) General Warehousemen (other than Soft-goods) award, and the New Zealand (except Nelson and Westland) Soft-goods Warehousemen award.

In 1949 after the last preceding pronouncement the exemption figure in each award stood at £475 whereas in the present awards the figure is £650, a difference of £175. Even after making due allowance for the fact that in 1949 the Court had no power to consider any alteration to the figure of £475 when making amendments to give effect to the pronouncement of that year and also for the effect of the 15 per cent general order of 1951 in relation to this figure, the upward movement has been considerably more than £36 12s. 4d., which is the full effect of the Court's 1952 pronouncement on an annual basis.

Substituting £479 15s. 3d. for £475, £670 9s. for £650, £190 13s. 9d. for £175, and *nil* for £36 12s. 4d.—such substitutions being in accord with amounts under the Wellington City Council Clerical and other Officers award at like dates—the inference is clear.)

Mention is also made in the memorandum of section 80 of the Industrial Conciliation and Arbitration Act, 1925. Section 80 refers only to matters brought before the Court in accordance with statutory authority.

In this connection, should it be argued that regulation 12 (1) gives the Court such authority in the matter of the salary bar, I would refer to the opening words of that regulation, viz., "Subject to these regulations" and to the phrase therein "apply in relation to any hearing." It should be pointed out moreover that the Court has already held, prior to regulation 11 being introduced but with full knowledge of section 80, that it had no power to consider any alteration to a salary bar figure when making amendments to give effect to a pronouncement.

With the statement in the memorandum that some alteration to the clause is necessary I agree, but I do not agree that there have been any "changes" other than minor ones in the salary rates, while there has certainly been no change at all in the top rate of Grade "M". The alteration necessary to preserve and maintain the existing scope of the award is of course merely the addition to the £650 salary bar of a sum equivalent to the *effect* of the now deleted clause 4 on the top rate of Grade "M" (in which rate such *effect* is now incorporated—but to which workers remuneration nothing has been added).

In view of these facts and because of the import of the Court's decision on organizations vitally concerned with the scope of the award—a decision which seems to me to have gone far beyond the purpose for which it should have been made—I consider the correct figures to be £670 9s. in the case of males and £422 1s. in the case of females.