

NEW ZEALAND TAXI-TELEPHONISTS—AWARD

[Filed in the Office of the Clerk of Awards, Dunedin]

In the Court of Arbitration of New Zealand, Northern, Taranaki, Wellington, Marlborough, Nelson, Westland, Canterbury, and Otago and Southland Industrial Districts—In the matter of the Industrial Conciliation and Arbitration Act 1954; and in the matter of an industrial dispute between the New Zealand Federated Clerical and Office Staff Employees Industrial Association of Workers (hereinafter called “the union”) and the under-mentioned persons, firms, companies, and unions (hereinafter called “the employers”):

Northern, Taranaki, and Wellington Taxi Proprietors' Industrial Union of Employers,
Transport House, 171 The Terrace, Wellington.
Canterbury and Otago and Southland Taxi Proprietors' Industrial Union of Employers,
159 Oxford Terrace, Christchurch.

NORTHERN INDUSTRIAL DISTRICT

Auckland Co-operative Taxi Society Ltd., Newton Road, Auckland.
Gisborne Taxis Ltd., Bright Street, Gisborne.
Hamilton Taxi Society Ltd., Norton Road, Hamilton.
Kiwi Cabs (Whangarei) Society Ltd., Rathbone Street, Whangarei.
North Shore Radio Co-operative Society, Lake Road, Takapuna.
Otorohanga Taxi Cab Organisation, Tuhoro Street, Otorohanga.
Rotorua Taxi Proprietors Federation (Inc.), Haupapa Street, Rotorua.
Te Kuiti Taxis, Rora Street, Te Kuiti.

TARANAKI INDUSTRIAL DISTRICT

Hawera Taxis, 56 Victoria Street, Hawera.
New Plymouth Taxis, 13 Brougham Street, New Plymouth.

WELLINGTON INDUSTRIAL DISTRICT

Blue Band Taxis, Ltd., 137 Broadway, Palmerston North.
Blue Band Taxis, 117 Karamu Road North, Hastings.
Grey Cabs Ltd., Jervois Quay, Wellington.
Higgs, Billy, and Son Ltd., 171–173 Vivian Street, Wellington.
Morrison's Taxis Ltd., 1 Pretoria Street, Lower Hutt.
Upper Hutt Taxis Ltd., Main Road, Upper Hutt.
Wellington Co-op Taxis Owner-Driver Society Ltd., 172–174 Vivian Street, Wellington.

MARLBOROUGH INDUSTRIAL DISTRICT

New Blenheim Taxis Ltd., Market Place, Blenheim.

NELSON INDUSTRIAL DISTRICT

City Taxis Ltd., Bridge Street, Nelson.
 Motueka Taxis, High Street, Motueka.
 Nelson Taxis Ltd., Haven Road, Nelson.
 Richmond Taxis Ltd., Queen Street, Richmond.
 Takaka Taxis Ltd., Commercial Street, Takaka.

WESTLAND INDUSTRIAL DISTRICT

Gold Band Taxis Hokitika Ltd., Revell Street, Hokitika.
 Greymouth Taxis, Regent Theatre Building, Mackay Street, Greymouth.
 Kawatiri Taxis, Brougham Street, Westport.
 Kennedy Bros. Ltd., Guinness Street, Greymouth.
 Westport Taxis Ltd., Palmerston Street, Westport.

CANTERBURY INDUSTRIAL DISTRICT

Blue Star Taxis, 287 Moorhouse Avenue, Christchurch.
 Gold Band Taxis, 179-183 St. Asaph Street, Christchurch.
 Kiwi Taxis Ltd., 145 Stafford Street, Timaru.
 Kiwi Taxis, Norwich Quay, Lyttelton.

OTAGO AND SOUTHLAND INDUSTRIAL DISTRICT

Blue Star Taxis, Esk Street, Invercargill.
 City Taxis, 17 Manse Street, Dunedin.
 Denton's Motors Ltd., Gore Street, Bluff.
 Dunedin Taxis Ltd., 32 Octagon, Dunedin.
 Gold Band Taxis, Irk Street, Gore.
 Keach's Taxis Ltd., John Street, Balclutha.
 Red Band Taxis, 47 Ribble Street, Oamaru.
 Robertson and Gibbs, Beach Street, Port Chalmers.

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 130 of the Industrial Conciliation and Arbitration Act 1954, 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 30th day of September 1961 and thereafter as provided by section 152 of the Industrial Conciliation and Arbitration Act 1954.

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 2nd day of November 1960.

[L.S.]

A. TYNDALL, Judge.

SCHEDULE

Industry to Which Award Applies

1. (a) This award shall apply only to taxi-telephonists, including switchboard attendants and radio taxi-telephonists.

(b) All clerical workers other than those described in subclause (a) of this clause shall be subject to the New Zealand Clerical Workers' Award.

Definitions

2. (a) A taxi-telephonist is a worker substantially engaged in receiving by telephone orders for taxi-cabs and/or dispatching taxi-cabs by telephone, radio, or verbal direction.

(b) A senior is a worker entitled to receive, under subclauses (a) or (b) of clause 3, £11 18s. 1d. per week or more in the case of males and £8 9s. 1d. per week or more in the case of females.

(c) A junior is a worker in receipt of a wage less than those specified in subclause (b) of this clause.

Wages

3. The minimum rates of weekly wages shall be as follows:

(a) *Males:*

Age Commencing Employment				First Year	Second Year	Thereafter
				£ s. d.	£ s. d.	£ s. d.
Under 20	..	..	..	6 5 0	8 12 8	11 18 1
20 to 21	..	..	..	8 12 8	10 14 7	11 18 1
Thereafter	..	..	..	11 18 1	11 18 1	11 18 1

Provided that a worker of the age of 21 years or upwards shall be paid not less than the rate provided in the Minimum Wage Act.

(b) *Females:*

Age Commencing Employment	First Year		Second Year		Thereafter
	First Half	Second Half	First Half	Second Half	
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Under 20	5 6 8	6 6 6	7 0 9	7 12 0	8 9 2
20 to 21	£ s. d. 6 6 6		£ s. d. 7 12 0		8 9 2
Thereafter	8 9 2		8 9 2		8 9 2

Provided that a worker of the age of 21 years or upwards shall be paid not less than the rate provided in the Minimum Wage Act.

(c) Workers who for at least one-third of their ordinary hours of work are employed in dispatching taxi-cabs shall be paid additional rates to the above as follows:

	Per Week
	s. d.
Senior males and senior females	16 0
Junior males and junior females	7 6

(d) Where a staff of six or more telephonists are employed the worker in charge shall receive not less than £13 5s. per week, and at least two others shall be paid not less than the senior rate. Where 12 or more are employed, at least four others shall be paid not less than the senior rate.

Requirements of Economic Stabilisation Regulations

4. No worker bound by this award shall in any week be paid a lesser amount by his employer than the worker would have been entitled to be paid under this award if it had specifically applied the general order of the Court dated 18 September 1959 otherwise than by incorporation pursuant to the pronouncement of the Court dated 18 September 1959.

Hours of Work

5. (a) The ordinary hours of work shall not exceed 40 hours in any week and shall be worked on any five of the seven days of the week. Where practicable each worker shall be allowed his two days off consecutively.

(b) The ordinary hours of work shall not exceed eight hours in any one day. The daily hours of work shall be continuous from the time of commencement and shall not be broken except for the regular meal interval which shall not exceed one hour in duration.

(c) *Shift-work*—Shifts may be worked under the following conditions:

- (i) The weekly hours of work may be made up of not more than five shifts each of which shall not exceed eight hours.
- (ii) Shifts may be broken only by one meal interval of not more than one hour, provided such interval occurs between the hours of 11 a.m. and 8 p.m.
- (iii) Two periods off duty, each of 24 consecutive hours, shall be allowed to each worker in each week.
- (iv) If required by the workers or by the employer shifts shall rotate not less frequently than fortnightly.
- (v) Shift workers employed on afternoon or night shifts shall be paid a shift allowance as follows:

Afternoon shift, any part of which falls between 6 p.m. and 11.30 p.m.,
2s. 6d. per shift.

Night shift, any part of which falls between 11.30 p.m. and 6 a.m.,
4s. per shift.

(d) No worker shall be required to work more than five hours without a meal interval: Provided that this shall not apply in the case of shift workers, if reasonable opportunity is afforded to the workers to partake of a meal during a shift in the employer's time.

(e) When a worker is required to work on Sunday or on Christmas Day, New Year's Day, Anzac Day, or Good Friday as part of his ordinary working hours, he shall be paid, in addition to his wages, an extra payment at his ordinary rate.

(f) A time-table setting forth the working hours, or a roster of shifts, as the case may be, of each employee shall be exhibited in a conspicuous place in each office.

(g) Female workers shall not be employed between the hours of 11 p.m. and 7 a.m.; and overtime rates shall be paid to female workers for time worked after 10 p.m.

Saturday Work

6. When a worker is required to work on Saturday as part of his ordinary working hours he shall be paid at one-half of his ordinary rate in addition to his ordinary wages.

Overtime

7. (a) All time worked in excess or outside of the hours prescribed in clause 5 hereof shall be deemed to be overtime and shall be paid for at time and a half rate for the first four hours and at double time rates thereafter in addition to the weekly wage: Provided that all overtime worked on Christmas Day, New Year's Day, Anzac Day, Good Friday, and Sundays shall be paid for at double time rates.

(b) For the purpose of this clause each week shall be deemed to commence at midnight on Sunday.

Holidays

8. Workers shall become entitled to an annual holiday of three weeks and one working-day on full pay on completion of each year of employment with any employer: Provided that any worker not completing the year of employment shall be entitled to a proportionate holiday.

Casual Workers

9. A worker engaged for less than one week shall be termed a casual, and such worker shall be paid *pro rata* for time worked at a rate of 25 per cent more than the appropriate rate set out in clause 3. The *pro rata* rate payable shall be calculated on an hourly basis computed on the weekly wage divided by 40.

Record of Service

10. Each worker on leaving or being discharged from his employment shall, on request, be given within 24 hours thereafter a certificate in writing signed by the employer and stating the position held and length of service.

Terms of Employment

11. (a) Except in the case of casual workers, the employment shall be a weekly one, and one week's notice of the termination of the employment shall be given by either party; but this shall not affect the right of an employer summarily to dismiss a worker for serious misconduct.

(b) Wages shall be paid in cash weekly, not later than Wednesday, and in the employer's time.

(c) An employer shall be entitled to make a rateable deduction from the wages of workers for time lost through sickness, accident, or default.

(d) Where a worker is booked to commence or to finish work before or after the ordinary passenger services operate, the employer shall either provide or pay for the means of conveyance to the place of employment or the worker's home, as the case may require. For the purposes of this subclause the expression "ordinary passenger services" means the tram, train, bus, or any other means of conveyance ordinarily used by such worker in travelling to and from his place of employment.

No Reduction in Wages

12. No worker coming within the scope of this award shall have his wages or salary reduced by reason of the operation of this award.

Disputes

13. The essence of this award being that the work of the employers shall not on any account whatsoever be impeded but shall always proceed as if no dispute had arisen, it is provided that if any dispute or difference shall arise between the parties bound by this award, or any of them, as to any matter whatsoever arising out of or connected therewith and not specifically dealt with in this award, every such dispute or difference shall be referred to a committee to be composed of two representatives of each side, together with an independent chairman to be mutually agreed upon or, in default of agreement, to be appointed by the Conciliation Commissioner for the district. Either side shall have the right to appeal to the Court against a decision of any such committee upon giving to the other side written notice of such appeal within 14 days after such decision has been made known to the party desirous of appealing.

Conditions as to Offices

14. (a) Each employer shall permit his employees to have lunch during the lunch interval on the premises.

(b) *Dining Accommodation and Cloak-rooms*—In offices in which three or more females are employed at the one time, dining accommodation shall be provided, also a cloak-room or enclosure in which privacy is secured for dressing. There shall also be provided a room with suitable couch accommodation for rest in cases of temporary indisposition; but where it is impracticable to set a room apart for that purpose it shall be sufficient if a couch or couches are provided in a portion of the cloak-room screened off from the place where clothing is hung.

(c) *Lighting, Heating, and Ventilation*—Adequate lighting, heating, ventilation, and ablution facilities shall be provided in all offices.

(d) *Smocks and Protective Clothing*—Where an employer requires workers to wear smocks or protective clothing, the cost of such, together with laundering and maintenance, shall be borne by the employer.

(e) A break shall be allowed for morning and afternoon tea, provided there is no complete cessation of work.

Workers to be Members of Union

15. (a) Subject to the provisions of sections 174 (5) and 175 of the Industrial Conciliation and Arbitration Act 1954, 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 18 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 21 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 section 174 (3) of the Industrial Conciliation and Arbitration Act 1954 which gives to workers the right to join the union.)

Under-rate Workers

16. (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 14 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.

Effective Operation of Award

17. (a) The secretary or other authorised officer of the union shall, with the consent of the employer (such consent not to be unreasonably withheld), be entitled to enter the office or works at all reasonable times and there interview any workers, but not so as to impede the work of the office.

(b) In every establishment the occupier shall at all times keep a time and wages book showing in the case of each worker:

(i) The name of the worker, together with his age if under 21 years of age:

(ii) The kind of work on which he is usually employed:

(iii) The hours during which he has actually been employed on each day:

(iv) The wages paid on each pay-day, and the date thereof:

(v) Such other particulars as are prescribed by regulations.

(c) Employers bound by this award shall, upon request by the union, supply a list of their workers.

Application of Award

18. This award shall apply to the original parties named herein, and shall extend to and bind as subsequent party hereto every 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, with the industrial districts to which this award relates.

Scope of Award

19. This award shall operate throughout the Northern, Taranaki, Wellington, Marlborough, Nelson, Westland, Canterbury, and Otago and Southland Industrial Districts.

Term of Award

20. This award, in so far as the provisions relating to the rates of wages to be paid are concerned, shall be deemed to have come into force on the first day of the pay period in each establishment commencing on or after the 6th day of October 1960, and in so far as all 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 30th day of September 1961.

In witness whereof the seal of the Court of Arbitration hath hereunto been affixed, and the Judge of the Court hath hereunto set his hand, this 2nd day of November 1960.

[L.S.]

A. TYNDALL, Judge.

MEMORANDUM

The award, including the operative date of provisions relating to wages, embodies the terms of settlement arrived at by the assessors in Conciliation Council.

A. TYNDALL, Judge.

NEW ZEALAND TAXI-TELEPHONISTS—INTERPRETATION

In the Court of Arbitration of New Zealand, Wellington Industrial District—In the matter of the Industrial Conciliation and Arbitration Act 1954; and in the matter of an application by an Inspector of Awards at Wellington for interpretation of the New Zealand Taxi-telephonists Award, dated the 2nd day of November 1960, and recorded in 60 Book of Awards 2521.

Overtime, Computation of—Rate in Addition to Prescribed Minimum Rate—Included in Ordinary Rate for Computing Overtime and Penal Payments—Taxi-telephonists

In addition to the minimum rates of pay prescribed in clause 3 (a), the award provides in clause 3 (c) that:

“Workers who for at least one-third of their ordinary hours of work are employed in dispatching taxi-cabs shall be paid additional rates to the above as follows . . .”

Held: For the purpose of computing overtime and penal payments the ordinary rate of pay is to include the additional rates provided for in clause 3 (c).

WHEREAS by an award of the Court of Arbitration, dated the 2nd day of November 1960, it was directed, *inter alia*, that:

3. The minimum rates of weekly wages shall be as follows:

(a) Males

Age Commencing Employment	First Year	Second Year	Thereafter
	£ s. d.	£ s. d.	£ s. d.
Under 20 	6 5 0	8 12 8	11 18 1
20 to 21 	8 12 8	10 14 7	11 18 1
Thereafter 	11 18 1	11 18 1	11 18 1

Provided that a worker of the age of 21 years or upwards shall be paid not less than the rate provided in the Minimum Wage Act.

(c) Workers who for at least one-third of their ordinary hours of work are employed in dispatching taxi-cabs shall be paid additional rates to the above as follows:

			Per Week	
			s.	d.
Senior males and senior females	..	..	16	0
Junior males and junior females	..	..	7	6

5. (e) When a worker is required to work on Sunday or on Christmas Day, New Year's Day, Anzac Day, or Good Friday as part of his ordinary working hours, he shall be paid, in addition to his wages, an extra payment at his ordinary rate.

Saturday Work

6. When a worker is required to work on Saturday as part of his ordinary working hours he shall be paid at one-half of his ordinary rate in addition to his ordinary wages.

Overtime

7. (a) All time worked in excess or outside of the hours prescribed in clause 5 hereof shall be deemed to be overtime and shall be paid for at time and a half rate for the first four hours and at double time rates thereafter in addition to the weekly wage: Provided that all overtime worked on Christmas Day, New Year's Day, Anzac Day, Good Friday, and Sundays shall be paid for at double time rates.

(b) For the purpose of this clause each week shall be deemed to commence at midnight on Sunday.

And whereas a question has arisen as to the interpretation of the said award to the following purport:

R. R. Nicholas is a taxi-telephonist employed by Black and White Taxis Limited. Whilst so employed he was engaged at least one-third of his ordinary hours of work in dispatching taxis and was paid as follows:

Hours	Total	Ordinary	Overtime	Normal Pay	Overtime Pay	Taxable Extras	Taxable Total
<i>Pay Week Ending 8 November 1960</i>							
W. 8	54	40	26	11 18 1	7 13 10	16 0	20 7 11
Th. 8½							
F. 12½							
Sat. 8							
Sun. —							
M. 9							
T. 8							
<i>Pay Week Ending 15 November 1960</i>							
W. 8	54	40	26	11 18 1	7 13 10	16 0	20 7 11
Th. 8½							
F. 12½							
Sat. 8							
Sun. —							
M. 9							
T. 8							

The taxable extras of 16s. per week are additional payments for work covered by clause 3 (c) of the award.

And the question is whether for the purpose of computing overtime and penal payments does the ordinary rate of pay include the additional rates provided for in clause 3 (c) of the award?

And whereas an Inspector of Awards at Wellington has made application to the Court for an interpretation of the said question.

OPINION OF THE COURT DELIVERED BY TYNDALL, J.

MR NOLAN appearing for the New Zealand Federated Clerical and Office Staff Employees Industrial Association of Workers submitted that the additional rate of 16s. per week prescribed in clause 3 (c) of the award should be treated as part of the

weekly wage for workers who for at least one-third of their ordinary hours of work are employed in dispatching taxi-cabs, and in consequence should attract overtime payments under clause 7, and be taken into account in computing payments due under clause 6 of the award. He relied for support on the decisions in *Auckland Carpenters and Joiners' and Joiners' Machinists Industrial Union of Workers v. Tapper Construction Co. Ltd.* (57 Book of Awards 1547) and on an appeal under the Taranaki, Wellington, Marlborough, Canterbury, and Southland Front-of-House Employees Award (45 Book of Awards 2672).

Mr Stephenson appearing for Black and White Taxis Ltd. contended that the additional rate of 16s. per week is a penalty payment which is required to be made for the more arduous task of dispatching taxis. He argued that it is a penalty payment because it is not directly related to the total amount of work performed during normal hours in any one week, and submitted that it is in the nature of a perquisite because of the fact that a worker has to work only one-third of his ordinary hours of work at dispatching taxi-cabs to qualify for the payment.

In support of his contentions he cited the judgments in *Moon v. Kents Bakeries Ltd.* (46 Book of Awards 770), *O'Donnell v. Walter Buchanan Ltd.* (1948 G.L.R. 502), and *Inspector of Awards v. Stormonts Ltd.* (53 Book of Awards 651). In *Moon v. Kents Bakeries Ltd.* the issue was whether certain penalty payments prescribed in the "hours of work" clause of the New Zealand Bakers and Pastrycooks and their Labourers' Award for early starting should be included when computing the payment due to a worker in respect of his annual holiday under the Annual Holidays Act. The other two cases related to the question as to whether penalty payments prescribed in the "hours of work" clause of the Bakers Award should be included as part of a worker's ordinary rate when computing overtime, and the decision in each case was in the negative.

In our view the payment of 16s. per week in the present case is not a penalty payment in the sense that its object is to discourage the employment of workers on the dispatch of taxi-cabs, but is an additional payment which is designed to compensate any worker called upon for an appreciable period to perform a task which is more onerous than the usual work of a taxi-telephonist. The provision appears in the wages clause, and is sandwiched between scales of minimum weekly rates of wages and a subclause prescribing *inter alia* a higher gross weekly rate for a worker in charge of six or more telephonists.

We do not consider the payment is analogous to the penalty payments prescribed in the "hours of work" clause of the Bakers Award. We would draw attention to 2 (a) of the Taxi-telephonists Award which reads:

A taxi-telephonist is a worker substantially engaged in receiving by telephone orders for taxi-cabs and/or dispatching taxi-cabs by telephone, radio, or verbal direction.

We are disposed to take the view that the reference to a minimum of one-third of the ordinary hours of work in clause 3 (c) is intended to define with precision the meaning of the word "substantially" when applied to the employment of a worker on dispatching taxi-cabs.

The question submitted to the Court is whether for the purpose of computing overtime and penal payments the ordinary rate of pay is to include the additional rates provided for in clause 3 (c).

The answer is "Yes".

Dated this 19th day of October 1961.

[L.S.]

A. TYNDALL, Judge.