

**NEW ZEALAND (EXCEPT WELLINGTON 10-MILE RADIUS) MILK
PASTEURISING AND BOTTLING FACTORIES EMPLOYEES—AWARD**

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

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 Dairy Factories and Related Trades Employees' Industrial Union of Workers (hereinafter called "the union") and the under-mentioned persons, firms and companies (hereinafter called "the employers"):

NORTHERN INDUSTRIAL DISTRICT

Auckland Milk Treatment Corporation, P.O. Box 12005, Penrose, Auckland.
 Belmont Dairy Ltd., Lake Road, Devonport, Auckland.
 Dargaville Milk Treatment Corporation, P.O. Box 133, Dargaville.
 Gisborne Co-operative Milk Producers' Association Ltd., P.O. Box 23, Gisborne.
 Hamilton Milk Producers' Co. Ltd., P.O. Box 4019, Hamilton.
 Kaitiaki Co-operative Dairy Co. Ltd., Private Bag, Taumarunui.
 Kaitiaki Milk Producers' Association, P.O. Box 2, Kaitiaki.
 Milk Treatment (Opotiki), Ltd., P.O. Box 162, Opotiki.
 Murupara Milk Co. Ltd., P.O. Box 98, Murupara.
 New Zealand Co-operative Dairy Co. Ltd., P.O. Box 459, Hamilton.
 Okitu Co-operative Dairy Co. Ltd., P.O. Box 451, Gisborne.
 Rotorua Milk Treatment Co. Ltd., P.O. Box 530, Rotorua.
 Stonex Bros. Ltd., 20 Edinburgh Street, Newton, Auckland.
 Svendsen, H. N., and Sons Ltd., P.O. Box 98, Pukekohe, Auckland.
 Tauranga Milk Co. Ltd., Tauranga.
 Tew, R., Richards Street, Opotiki.
 Waikato Milk Co. Ltd., P.O. Box 5059, Frankton Junction.
 Whakatane Milk Pasteurising Co. Ltd., P.O. Box 87, Whakatane.
 Whangarei Borough Council, P.O. Box 42, Whangarei.
 Wyborn, C. G., P.O. Box 35, Te Aroha.

TARANAKI INDUSTRIAL DISTRICT

Bassett, R., 2 Surrey Street, Hawera.
 City Dairy Ltd., P.O. Box 176, New Plymouth.
 Model Dairy Ltd., P.O. Box 65, Stratford.

WELLINGTON INDUSTRIAL DISTRICT

Cheltenham Co-operative Dairy Co. Ltd., P.O. 10, Feilding.
 Dumble, Jack, Meeanee, Napier.
 Hastings Milk Treatment Station, P.O. Box 152, Hastings.
 Hawke's Bay Raw Milk Producers' Association Ltd., 41 Tennyson Street, Napier.
 Hutt Valley Milk Treatment Corporation, P.O. Box 211, Lower Hutt.
 Manawatu Co-operative Milk Producers' Association Ltd., The Square, Palmerston North.
 New Zealand Milk Treatment Stations Industrial Union of Employers, 111 Customhouse Quay, Wellington.
 Palmerston North Milk Treatment Station, P.O. Box 219, Palmerston North.
 Raetihi Pasteurised Milk Supply Co. Ltd., Ballance Street, Raetihi.
 Rawhiti Dairy Ltd., P.O. Box 38, Dannevirke.
 Wairoa Co-operative Dairy Co. Ltd., P.O. Box 10, Wairoa.
 Wanganui Milk Treatment Corporation, P.O. Box 116, Wanganui.
 Wellington Dairy Farmers' Co-operative Association Ltd., A.M.P. Buildings, Wellington.
 Willowbank Dairy Co. Ltd., P.O. Box 180, Masterton.

MARLBOROUGH INDUSTRIAL DISTRICT

Blenheim Milk Producers' Association, P.O. Box 42, Blenheim.
 Blenheim Milk Treatment Corporation, Maxwell Street, Blenheim.

NELSON INDUSTRIAL DISTRICT

Milk Treatment (Nelson) Ltd., P.O. Box 10, Nelson.

Nelson Co-operative Milk Producers' Association, P.O. Box 10, Nelson.

WESTLAND INDUSTRIAL DISTRICT

Riversdale Dairies Supplies (Greymouth) Ltd., P.O. Box 220, Greymouth.

Westport United Dairies Ltd., P.O. Box 9, Westport.

CANTERBURY INDUSTRIAL DISTRICT

Canterbury Dairy Farmers' Co-op. Milk Supply Co. Ltd., P.O. Box 274, Christchurch.

Christchurch Milk Co. Ltd., P.O. Box 351, Christchurch.

K.B.'s Dairies (Ashburton) Ltd., South Street, Ashburton.

Timaru Milk Co. Ltd., P.O. Box 132, Timaru.

Waimate Co-operative Dairy Factory Co. Ltd., P.O. Box 66, Waimate.

Wright's Metropolitan Milk Co., P.O. Box 676, Christchurch.

OTAGO AND SOUTHLAND INDUSTRIAL DISTRICT

Balclutha Milk Treatment Station Ltd., P.O. Box 19, Balclutha.

Dairy Farmers' Co-operative Milk Supply Co. Ltd., A.M.P. Building, Dunedin.

Dunedin Co-operative Milk Station Ltd., P.O. Box 204, Dunedin.

Invercargill Milk Treatment Corporation, P.O. Box 428, Invercargill.

Mataura Co-operative Dairy Co. Ltd., P.O. Box 17, Mataura.

North Otago Dairy, 10 Eden Street, Oamaru.

THE Court of Arbitration of New Zealand (hereinafter called "the Court"), having taken into consideration the matter of the abovementioned 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 31st day of March 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 22nd day of April 1960.

[L.S.]

A. TYNDALL, Judge.

SCHEDULE

Industry to Which Award Applies

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

Hours of Work

2. (a) The ordinary hours of work for all workers shall be 40 per week.

(b) Such hours shall be worked on not more than five 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 7 a.m. and 5.30 p.m. This subclause shall not apply to employees working in milk storage depots. For the purposes of this subclause, a milk storage depot means a place where milk is stored, but not treated.

(d) Excepting when changing shifts or when necessitated by absenteeism, a worker required to commence a new day's work or a new shift before having a break of nine hours shall be paid at double ordinary rates for the time by which the nine-hour break is reduced.

(e) Where practicable, each worker shall be allowed his two days off consecutively.

(f) Excepting for meal-times, where continuity of hours are not observed, all time from commencing to finishing work in any day shall be deemed to have been worked: Provided, however, that this clause shall not operate after eight continuous ordinary hours worked on any day.

(g) Each employee shall be entitled to have two days off in each week and such days shall be on a rotating roster system. Such roster shall be posted up in a position accessible to employees at least one week prior to its commencement and shall be for a minimum period of seven weeks. In cases of sickness, accident, or absence of a regular worker, or by arrangement with the union representative, it may be varied but not otherwise.

Only after prior notification to the union by the employer drivers wholly or substantially employed on bottled "school-milk" deliveries may be exempt from the roster, provided that the ordinary hours of work are confined to Monday-Friday inclusive.

For any female employed the ordinary hours of work shall be between the hours of 7 a.m. and 5.30 p.m. and confined to Monday to Friday inclusive, providing further that no female shall be employed between the hours of 6 p.m. on any day and 8 a.m. the following day, or on any Sunday, half-holiday, or any holiday set out in clause 7.

Any worker required to work on his day or days off without being notified the previous day shall be credited with eight hours' work: Provided, however, that a minimum credit of four hours shall be allowed the worker on any call-backs if notified, and shall be paid time and a half for the first four hours' work and double time thereafter, excepting on Sunday and the holidays enumerated in clause 7, in which case the higher rate shall be paid.

Wages and Classification

3. (a) Where on any shift the number of workers exceeds thirty-one there shall be:

	Payable from 12 October 1959 to 21 April 1960			Payable on and After 22 April 1960		
	Per Week			Per Week		
	£	s.	d.	£	s.	d.
Foreman	11	13	0	14	8	11
First assistant	11	6	5	14	0	9
Second assistant	10	19	10	13	12	7
Third assistant	10	15	5	13	7	1
Dispatch man in charge	10	10	7	13	1	1
Milk tippers	10	10	7	13	1	1
Cool-room bottle stackers (employed as such for 50 per cent or more of their time)	10	7	8	12	17	6
All other workers	10	2	6	12	11	1

(b) Where on any shift the number of workers is from 21 to 30 there shall be:

Foreman	11	6	5	14	0	9
First assistant	10	19	10	13	12	7
Second assistant	10	15	5	13	7	1
Dispatch man in charge	10	10	7	13	1	1
Milk tippers	10	10	7	13	1	1
Cool-room bottle stackers (employed as such for 50 per cent or more of their time)	10	7	8	12	17	6
All other workers	10	2	6	12	11	1

(c) Where on any shift the number of workers is from 11 to 20 there shall be:

Foreman	11	2	1	13	15	5
First assistant	10	17	6	13	9	8
Dispatch man in charge	10	10	7	13	1	1
Milk tippers	10	10	7	13	1	1
Cool-room bottle stackers (employed as such for 50 per cent or more of their time)	10	7	8	12	17	6
All other workers	10	2	6	12	11	1

(d) Where on any shift the number of workers is from five to 10 there shall be:

Foreman	11	2	1	13	15	5
All other workers	10	2	6	12	11	1

(e) (i) Where on any shift the number of workers is from one to four there shall be:

First assistant	10	11	1	13	1	9
All other workers	10	2	6	12	11	1

(ii) Milk storage depots:

Dispatch man in charge	10	10	7	13	1	1
General hands	10	2	6	12	11	1

Workers other than shift workers commencing before 7 a.m. or after 5.30 p.m. shall be paid an extra 17s. 6d. per week.

(f) Any worker substantially employed as a pasteurising-operator shall be classified as such in addition to the above classification and shall be paid not less than £10 11s. 1d. per week for the period 12 October 1959 to 21 April 1960 and £13 1s. 9d. on and after 22 April 1960.

(g) Where the worker is required to hold a stationary engine-driver's certificate, he shall be paid—

	Payable from 12 October 1959 to 21 April 1960 Per Week £ s. d.	Payable on and After 22 April 1960 Per Week £ s. d.
In the case of a first class certificate	11 2 1	13 15 5
And in the case of a second class certificate	10 17 6	13 9 8

When 11 or more workers are employed on any shift the workers under this subclause shall be in addition to the classification specified under this clause.

(h) *Laboratory or Test-room*—Adult laboratory assistants, £10 9s. 8d. per week for the period 12 October 1959 to 21 April 1960 and £13 per week on and after 22 April 1960.

Workers in charge in receipt of a salary of £912 or more per annum shall be exempt from the provisions of this award.

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

	Payable from 12 October 1959 to 21 April 1960 Per Week £ s. d.	Payable on and After 22 April 1960 Per Week £ s. d.
Under 16 years of age	4 16 6	5 19 8
From 16 to 16½ years of age	5 2 3	6 6 9
From 16½ to 17 years of age	5 8 0	6 13 11
From 17 to 17½ years of age	5 17 2	7 5 3
From 17½ to 18 years of age	6 8 9	7 19 8
From 18 to 19 years of age	7 0 2	8 13 10
From 19 to 20 years of age	7 14 0	9 10 0

Thereafter, at the rates prescribed for adults.

The proportion of juniors shall not exceed one to four or fraction of four adults fully employed.

For the purpose of incorporation of the effect of the Court's order dated the 18th day of September 1959, a worker who has reached the age of 20 years shall be deemed to be an adult.

(j) Where a youth is called upon to clean boilers or boiler-tubes, or to tip milk or cream, he shall be paid adult rates.

(k) (i) Drivers of any class of motor-vehicle with a combined weight of vehicle and maximum load not exceeding the weights set out in the following schedule shall be paid not less than the following rates:

	Payable from 12 October 1959 to 21 April 1960 Per Week £ s. d.	Payable on and After 22 April 1960 Per Week £ s. d.
Up to 2 tons	10 13 6	13 4 9
Over 2 tons and up to 4 tons	10 16 10	13 8 10
Over 4 tons and up to 5½ tons	10 19 11	13 12 8
Over 5½ tons and up to 10 tons	11 5 2	13 19 2
Over 10 tons and up to 15 tons	11 9 8	14 4 9
Over 15 tons	11 13 6	14 9 6

(ii) Where 10 or more drivers are employed there shall be a foreman-driver and his wages shall be 5s. 9d. per week in excess of the rate prescribed for the heaviest vehicle used.

	Payable from 12 October 1959 to 21 April 1960 Per Week £ s. d.	Payable on and After 22 April 1960 Per Week £ s. d.
(iii) Drivers' assistants: Drivers' assistants 10 2 6	12 11 1
(iv) Stablemen: Stablemen in charge of a stable of 10 or more horses shall be paid at the rate of	10 15 8	13 7 5
Other stablemen 10 9 8	13 0 0

(l) A worker engaged for less than five days shall be deemed a casual worker and shall be paid on an hourly basis 10 per cent above the minimum rate prescribed for a weekly worker.

(m) A casual worker shall be entitled to payments similar to weekly workers under clauses 2, 6, 7, and 8.

(n) Shift workers whose normal duties commence before 6 a.m. or after midday shall be paid 3s. 6d. per shift extra.

(o) Any worker who on more than two days in any one week is a substitute or carries out the duties of another worker receiving a higher award rate of wages shall be paid such higher rate whilst so employed.

(p) Unclassified workers holding a Massey Agricultural College Diploma for Market Milk shall be paid 5s. 9d. per week above the ordinary weekly wage.

Increase in Rates of Remuneration

4. For the period commencing on the 12th day of October 1959 and expiring on the 21st day of April 1960 the rates of wages determined by this award shall be increased to the extent and in the manner prescribed by the general order of the Court made under the Economic Stabilisation Regulations 1953, and dated the 18th day of September 1959.

Requirements of Economic Stabilisation Regulations

5. 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. This provision shall have application to the rates of remuneration payable from the date of making of this award.

Saturdays and Sundays

6. (a) For all time credited to any worker on any Saturday within the five day 40 hour week or eight hours per day, half ordinary rates extra shall be paid.

(b) For all time credited to any worker outside of the hours mentioned in sub-clause (a) of this clause the prescribed rates set out in clause 9 (Overtime) shall be paid.

(c) Double rates shall be paid for all credited time on any Sunday.

Holidays

7. (a) The following holidays shall be allowed: New Year's Day, the day following New Year's Day, Good Friday, Easter Monday, Anzac Day, Anniversary Day (or, where Anniversary Day is not observed, another day to be mutually agreed upon between the employers and the union), Labour Day, the birthday of the reigning Sovereign, Christmas Day, and Boxing Day.

(b) For time worked on any of the said holidays double ordinary rate shall be paid, in addition to the ordinary weekly wage.

(c) When a worker's weekly day off falls upon the same day as any one of the above holidays, he shall be paid an extra day's wages.

(d) For the purpose of calculating the ordinary weekly hours of work each of the said holidays allowed to any worker shall count as eight hours worked.

(e) Excepting in circumstances arising through sickness, accident, or default of a worker, 48 hours' notice shall be given to any worker required to work on a holiday.

(f) A minimum of four hours shall be credited to each worker who is called back to work on any of the above holidays.

(g) The employer shall pay wages for the above holidays to all workers performing work coming within the scope of this award who have been employed by him at any time during the fortnight ending on the day on which the holiday occurs.

Where any person has been employed in a factory by more than one employer during the fortnight ending on the day on which any of these holidays occurs, he shall be entitled to receive payment for the holiday from such one or more of those employers, and if more than one, in such proportions as the Inspector determines.

Annual Holidays

8. (a) Every worker shall be entitled to an annual holiday in accordance with the provisions of the Annual Holidays Act 1944: Provided that in the case of regular shift workers the annual holiday shall be of three weeks instead of two weeks.

Upon completion of five years' continuous employment with the same employer a worker shall be granted in respect of each further year of employment with that employer an annual holiday of three weeks instead of two weeks allowed under the Annual Holidays Act 1944.

(b) For every specified holiday in clause 7 falling within the annual holiday one extra day on pay shall be allowed. One day's pay is one-fifth of the ordinary weekly wage.

(c) Except where otherwise agreed upon, each worker shall be given two weeks' notice of when his annual holiday shall commence and his holiday shall be paid in advance.

Overtime

9. (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 and workers mentioned in clause 3 (e) (ii), 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.

Payment of Wages

10. (a) All wages and other payments shall be paid weekly, in cash, and in the employer's time.

(b) This award shall not operate to reduce the wages of any worker while he continues in his present position of employment.

(c) No deduction shall be made from the wages and other payments prescribed in this award except for union fees and for time lost through the worker's own default, sickness, or accident not arising out of or in the course of employment.

"Smoke-oh"

11. In every period of daily hours two periods of at least 10 minutes each shall be allowed at a time to be arranged by the manager, so that there is no complete cessation or interruption of the work of the factory. All "smoke-oh" periods shall be allowed without deduction.

Meal-time Intervals

12. (a) Excepting where the work can be completed in an extra half-hour, no worker shall be called upon to work for more than four and a quarter hours continuously without an interval of not less than three-quarters of an hour and not more than one hour.

(b) Any worker other than a shift worker, required to work overtime after 6 p.m. shall be paid a meal allowance of 5s.

General Conditions

13. (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 suitable waterproof aprons and, where necessary, under aprons.

(ii) All workers shall be supplied by the employer with overalls free of cost.

(iii) Where it is necessary for a worker to wear waterproof boots, the same shall be provided by the employer, but by agreement with a majority of his workers the employer may pay a boot allowance of 1s. 6d. per week in lieu of providing any worker entitled to them. 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 18 of this award.

(c) All overalls as supplied shall be laundered and maintained at the employer's expense.

(d) One quart of milk shall be provided free to each worker on each day of the week if he so desires.

(e) Each vehicle shall at all times be equipped with a torch supplied and maintained by the employer.

(f) 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.

(g) In all factories and depots there shall be provided by the employer a clock which is visible to employees, and such clock shall be kept in good working order.

(h) All drivers shall be supplied with a suitable oilskin coat and leggings, free of cost, and also a sou'wester when requested.

In each year each driver shall be supplied with one pair of suitable leather boots to be maintained by the worker. Workers terminating employment inside such period of 12 months shall refund a proportionate amount of the cost.

(i) It shall be a breach of this award for any employer to enter into any contract or sublet any work coming within the scope of this award on a "labour only" basis.

(j) Union notices shall be permitted to be posted up in the factory at a place approved by the management, which is always accessible to all employees.

(k) Suitable hand protectors shall be supplied to can washers.

(l) A driver shall not be required to pick up milk or cream cans of 6 gallons or more unless a platform of not less than 3 ft 6 in. in height, or a suitable loading device is provided.

(m) Workers handling and stacking water-sprayed crates of bottled milk shall be supplied with suitable waterproof jackets free of cost.

(n) All clothing issued free of cost shall remain the property of the employer and shall be returned to the employer upon the termination of the employment.

(o) *Dirt Money*—(i) When workers are required to enter flues or back end smoke boxes for the purpose of cleaning them or to chip and/or clean the interior of boilers they shall be paid 7d. per hour extra, with a minimum of 2s. 3½d. per day. When they are required to clean tubes by brush or scraper they shall be paid 2s. 3½d. per day extra.

(ii) A worker in charge of a boiler or boilers under steam shall not be called upon at the same time to perform or assist in the performance of the foregoing work.

(p) In every establishment a copy of the current award shall be posted up behind glass and in a place accessible to all workers.

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; and facilities shall be afforded for boiling water at meal-times.

(b) Lockers approved by the Inspector of Factories shall be provided for all workers, who shall be responsible for the tidiness and maintenance other than fair wear-and-tear.

(c) Adequate privy accommodation shall be provided.

(d) Hand-basins with hot and cold running water shall be provided complete with toilet soap and nail-brush; and for each employee a separate towel or other suitable means for the drying of hands.

Termination of Employment

15. One week's notice of termination of employment shall be given by either side, but shall not be given during the annual holiday period. 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

16. (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.

Right of Entry Upon Premises

17. 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, upon notifying the person in charge, enter upon the premises of any employer bound by this award.

Disputes and Matters Not Provided For

18. If any dispute shall arise in connection with any matter pertaining to or arising out of this award it 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 14 days after such decision shall have been communicated to the party desiring to appeal.

Workers to be Members of Union

19. (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 to employ in any position or employment subject to this award any adult person who is not for the time being a member of the New Zealand Dairy Factories and Related Trades Employees' Industrial Union of Workers.

(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 14 days or more without becoming a financial member of the New Zealand Dairy Factories and Related Trades Employees' Industrial Union of Workers.

(c) For the purposes of subclauses (a) and (b) of this clause a person of the age of 18 years and 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 adult workers, shall be deemed to be an adult.

(d) The employer shall, on written request of the secretary of the union, at not shorter intervals than three months, supply to the union the names and addresses of all employees bound by this award.

(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

20. (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.

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 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 10-mile radius of the General Post Office, Wellington), Marlborough, Nelson, Westland, Canterbury, and Otago and Southland Industrial Districts.

Term of Award

23. 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 12th day of October 1959, and so far as all other provisions of the 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 1961.

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 22nd day of April 1960.

[L.S.]

A. TYNDALL, Judge.

MEMORANDUM

After hearing the representatives of the parties, the Court has, in accordance with its pronouncement of 18 September 1959, incorporated in such rates of remuneration as it thinks just and equitable, as an integral part of those rates, the effect of the general order of the same date, such incorporation to operate from the date of making of the award. Also, to meet the requirements of regulation 5B of the Economic Stabilisation Regulations 1953 clause 5 has been inserted in the award. In other respects the award embodies the terms of settlement arrived at by the Council of Conciliation. Mr Hewitt is not in agreement and his dissenting opinion follows.

A. TYNDALL, Judge.

DISSENTING OPINION OF MR HEWITT

To grant incorporation in this industry and in this manner would seem to be a major departure from the cardinal principle purporting to be laid down by the regulations* – i.e., incorporation of the *effect* of the Court's order of 18 September 1959. There will be widespread and, I think, unfortunate repercussions throughout those undertakings unable to operate on a Monday to Friday basis.

*Regulation 5A (2) of the Economic Stabilisation Regulations 1953, Amendment No. 3, reads:

“Subject to the provisions of these regulations, the Court may, of its own motion or on the application of any industrial union or industrial association of employers or workers made in that behalf, make a pronouncement to the effect that the Court, when making any award to supersede, in whole or in part, any award or industrial agreement to which any general or other order applies, or to which it is specifically applied by any provision in that award or industrial agreement, will *incorporate* in such rates of remuneration as the Court thinks just and equitable, *as an integral part of those rates*, the *effect* of the general or other order.”

Regulation 5B reads:

“In giving effect, in the making of any award, to a pronouncement made under regulation 5A hereof, the Court shall ensure that as a result of the incorporation by the Court of the effect of the general or other order in any rates of remuneration determined by the award no worker bound by the award will in any week—

- (a) Where the order increased rates of remuneration, receive under the award less than he would receive if the award specifically applied the order otherwise than by such incorporation as aforesaid:
- (b) Where the order reduced rates of remuneration, suffer a greater reduction in the amount he receives under the award than he would suffer if the award specifically applied the order otherwise than by such incorporation as aforesaid.”

I find these regulations quite incompatible. It is now abundantly clear that it is virtually impossible to reconcile the result of incorporation of the Court's order as an *integral part of award rates* with the *effect* of that same order before incorporation.

The regulations may well be defective – that is not for me to decide – I can only repeat that incorporation in a form to fulfill the requirements of both 5A (2) and 5B must perforce go far beyond incorporation of the initial order of the Court which had limited application.

NOTE—The provision of the Factories Act become an added embarrassment in this case.
