

# NEW ZEALAND HORTICULTURAL AND GARDENING INDUSTRY— APPRENTICESHIP ORDER

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

WHEREAS application has been made to the Court by the New Zealand Horticulture and Gardening Apprenticeship Committee (hereinafter in this order referred to as the "New Zealand Committee") for an apprenticeship order governing the conditions of apprenticeship in the horticultural and gardening industry for the whole of New Zealand: And whereas the Court has heard the employers, workers, and other persons concerned and has considered the recommendation made to it by the said Committee: And whereas the Court has deemed it expedient to make a new order under section 13 of the Apprentices Act 1948, prescribing wages, hours, and other conditions of employment to be incorporated in contracts of apprenticeship in the industry for the whole of New Zealand, and prescribing such other matters and things as the Court is required and authorised by the said section or elsewhere to prescribe: Now, therefore, the Court doth hereby order and prescribe as follows:

1. *Industry to Which Order Applies*—The industry to which this order shall apply is the horticultural and gardening industry (hereinafter called "the industry").

2. *Application of Order*—The provisions of this order shall apply to all employers of apprentices in the industry throughout New Zealand (whether bound by an award or agreement relating to the industry or not), and to all apprentices employed by such employers in the industry, and to all contracts of apprenticeship between such employers and apprentices, whether or not such contracts have been reduced to writing. (An "agreement" is an industrial agreement filed under section 103 of the Industrial Conciliation and Arbitration Act 1954, or an agreement filed under section 8 of the Labour Disputes Investigation Act 1913.)

3. *Interpretation*—Where no local apprenticeship committee has been appointed in any locality, or where the Court has discharged any local apprenticeship committee, the words "local apprenticeship committee" wherever used in subsequent clauses of this order shall be deemed to mean "District Commissioner of Apprenticeship", hereinafter referred to as the "local committee" and "District Commissioner" respectively.

4. *Prior Consent of Committee*—(a) No employer shall engage any person as an apprentice on probation or enter into any contract of apprenticeship without the prior consent in writing of the appropriate local committee.

(b) An employer, before taking an apprentice to learn the industry, shall first satisfy the local committee that he is a suitable employer, is in a position to continue in business as an employer, and has the facilities for properly teaching him the industry.

(c) No employer shall be permitted to employ apprentices in the industry if he is not himself a journeyman or does not employ a journeyman. For the purposes of this order a "journeyman" is a nurseryman or gardener who has served an apprenticeship of five years, or who has been employed and paid as a nurseryman or gardener for not less than five years, or who is the holder of a diploma under the Royal New Zealand Institute of Horticulture Act 1953.

5. *Contracts to be Registered*—Every contract of apprenticeship and every alteration thereof shall be registered with the appropriate District Commissioner within a period of 28 days after the commencement of the employment of the apprentice (in the case of an original contract) or within 14 days after the making

of the alteration (in the case of an altered contract). If the contract or alteration is not presented for registration as aforesaid, the parties thereto shall be severally liable to a fine not exceeding £10 under the Apprentices Act 1948.

6. *Minimum Age*—The minimum age at which a person may commence to serve as an apprentice shall be 15 years.

7. *Term of Apprenticeship*—(a) For an apprentice commencing before his eighteenth birthday who has not obtained a School Certificate, the term of apprenticeship shall be five years, divided into 10 six-monthly periods.

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

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

(d) All holidays provided for in the award or agreement referred to in clause 10 of this order which are taken by an apprentice shall be deemed to be time served under his contract.

(e) All time lost by an apprentice through sickness in excess of three months in any period of his apprenticeship shall be made up before such apprentice shall be considered to have entered upon the next succeeding period of his apprenticeship, and the total period of his apprenticeship shall be extended by a period equivalent to such lost time.

(f) Where the New Zealand Committee is of the opinion that time served in a related occupation prior to the date of application for engagement of an apprentice should be credited to the apprentice, it may, on application made to it by or through a local committee, fix the term of apprenticeship.

(g) Time spent by an apprentice during normal working hours at an approved course of instruction in horticulture at an institution approved by the New Zealand Committee shall be deemed to be time served under his contract.

(h) From the 7th day of December 1956 an apprentice working overtime shall have such time added to the ordinary time in calculating the respective six-monthly period of the apprenticeship. Each hour worked as overtime shall be deemed to be one hour served for the purposes of each six-monthly period of apprenticeship.

8. *Period of Probation*—(a) The period of probation to be prescribed in any contract to enable the parties to determine whether or not it shall be continued shall not exceed three months.

(b) When an apprentice is transferred from one employer to another, there shall be a period of probation not exceeding three months to enable the parties to the contract to determine whether or not it shall be continued with the employer to whom the apprentice is transferred.

9. *Proportion*—(a) An employer shall be entitled to apply for permission to engage an apprentice when a journeyman has been employed for at least 12 months.

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

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

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

10. *Wages*—(a) The minimum weekly rates of wages payable to apprentices shall be the undermentioned percentages of the minimum weekly rate for qualified nurserymen (or gardeners) (or if no weekly rate is prescribed, then of an amount equal to 40 times the minimum hourly rate for qualified nurserymen or gardeners) in the branch of the industry to which the apprentice is apprenticed as prescribed by the award or agreement relating to the employment of such nurserymen (or gardeners) for the time being and from time to time in force in the establishment in which the apprentice is employed or, if there is no such award or agreement, as prescribed by the award or agreement relating to the employment of such nurserymen (or gardeners) for the time being and from time to time in force in an establishment of a similar class in a locality including the city of Wellington.

	For Apprentices Serving a Five-year Term Per Cent	For Apprentices Serving a Four-and-a- half Year Term Per Cent	For Apprentices Serving a Four-year Term Per Cent
First six-monthly period .....	32	37	42
Second six-monthly period .....	37	42	47
Third six-monthly period .....	42	47	52
Fourth six-monthly period .....	47	52	57
Fifth six-monthly period .....	52	57	62
Sixth six-monthly period .....	57	62	67
Seventh six-monthly period .....	62	67	72
Eighth six-monthly period .....	67	72	77
Ninth six-monthly period .....	72	77	.....
Tenth six-monthly period .....	77	.....	.....

(b) Every apprentice who shall have obtained the Junior Certificate issued under the Royal New Zealand Institute of Horticulture Act 1953 shall, upon production of such certificate to his employer, be paid not less than 3s. 6d. a week in excess of the minimum rate prescribed in subclause (a) of this clause; and every apprentice who shall have obtained the Intermediate Certificate so issued shall, upon production of such certificate to his employer, be paid not less than 5s. 6d. a week in excess of the minimum rate so prescribed.

(c) (i) An apprentice passing the First Qualifying Examination as prescribed by the New Zealand Trades Certification Board shall be paid not less than 5s. a week in addition to the minimum rate prescribed in subclause (a) of this clause, from the date of the granting of a pass in this examination.

(ii) An apprentice passing the Second Qualifying Examination as prescribed by the New Zealand Trades Certification Board shall be paid not less than 10s. a week in addition to the minimum rate prescribed in subclause (a) of this clause, from the date of the granting of a pass in this examination.

(iii) An apprentice passing the Trade Certificate Examination as prescribed by the New Zealand Trades Certification Board shall be paid not less than 15s. a week in addition to the rates prescribed in subclause (a) of this clause, from the date of the granting of a pass in this examination.

(d) An apprentice who qualifies for both the payments referred to in subclause (b) and subclause (c) of this clause shall receive both payments.

11. *Technical Classes*—(a) Where an apprentice resides within a convenient distance of a school which the New Zealand Committee is satisfied can provide instruction on a syllabus approved by it, it may, on the recommendation of the local committee, order such apprentice to attend during three years of his apprenticeship at evening classes for two evenings a week.

(b) As an alternative to evening classes as mentioned in subclause (a) the New Zealand Committee may, on the recommendation of the local committee, order an apprentice to enrol for and carry on with the Education Department's Technical Correspondence School a course of instruction relating to his trade.

(c) The New Zealand Committee may order any apprentice who has completed 6,000 hours of his apprenticeship to attend for not more than three weeks in any calendar year at a school or institution approved by it for a course of instruction in matters relating to his trade.

(d) Where an apprentice has been ordered to attend a course as provided in subclause (c), the employer shall permit him to attend.

(e) An employer shall not be entitled to make any deduction from the wages of an apprentice ordered to attend a course of instruction as provided in subclause (c); but absence from such a course shall be treated as absence through the apprentice's default, and the employer shall be entitled to make a rateable deduction from the wages as provided in clause 13 of this order. For the purposes of the term of apprenticeship, time spent at a school during normal working hours shall be reckoned as time served.

(f) When a local committee is of the opinion that an apprentice would not benefit by attendance at classes or courses as provided in subclauses (a), (b), and (c) above, the New Zealand Committee may exempt him from the requirements of those subclauses.

12. *Apprentices from Overseas*—A person who has served part of his apprenticeship to the industry outside of New Zealand may complete the term of apprenticeship herein provided for with an employer in New Zealand on furnishing to the District Commissioner a certificate from his former employer and such other evidence (if any) as the District Commissioner and the local committee may require in order to show the time served by such person as an apprentice outside of New Zealand. The District Commissioner may refuse to register any contract of apprenticeship entered into under the provisions of this clause until such evidence has been furnished to the satisfaction of himself and the committee. Any party affected by the decision of the District Commissioner may, within 14 days, appeal to the Court, whose decision shall be final and conclusive.

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

14. *Hours*—The hours worked by an apprentice shall, subject to the provisions of any statute, be those normally worked by journeymen (as defined in clause 4 (c) of this order) as prescribed by the award or agreement referred to in clause 10 of this order.

15. *Overtime*—(a) An employer shall not require or permit an apprentice under 18 years of age to work overtime more than five hours in any one week.

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

(c) Overtime shall be calculated in the manner prescribed for journeymen in the award or agreement referred to in clause 10 of this order and at the wage-rate received by the apprentice.

16. *Conditions of Award to Apply*—The conditions of the award or agreement referred to in clause 10 of this order, in so far as they relate to the method and time of payment of wages, holidays, travelling-time, suburban work, country work, meal-money, and other matters (other than membership of union) relating generally to the employment and not in conflict with this order, shall apply to apprentices.

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

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

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

(b) The apprentice shall keep a diary of the work he had done, with notes of other items of horticultural interest, and shall submit it to his employer for inspection at intervals of not more than three months. The local committee shall also be entitled to inspect the diary of the apprentice from time to time.

20. *Obligations of Employer*—(a) It shall be an implied term in every contract of apprenticeship that the employer will during the prescribed term, to the best of his power, skill, and knowledge, train and instruct the apprentice, or cause him to be trained and instructed as a competent journeyman in the branch or branches of the industry to which he is apprenticed in accordance with the provisions of the Apprentices Act 1948 and of this order and any amendments thereof.

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

(c) Every contract shall contain a list of the operations and skills to be taught the apprentice, based on the schedule to this order and approved by the local committee.

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

22. *Special Contracts*—The provisions of this order shall not necessarily apply in the case of a special contract of apprenticeship entered into under the provisions of section 25 of the Apprentices Act 1948.

23. *Revocation of Order*—The New Zealand Horticultural and Gardening Industry Apprenticeship Order, dated the 22nd day of December 1948, and recorded in 48 Book of Awards 2360, and any amendments thereto are hereby revoked as from the date of coming into operation of this order, but all resolutions and orders of the New Zealand Committee, or of local committees, made by them pursuant to the said order and its amendments shall continue in force as fully and effectually as if they had been made pursuant to this order, and accordingly shall where necessary be deemed to have so been made.

24. *Date of Operation*—This order shall operate and take effect as from the day of the date hereof.

---

#### SCHEDULE

- (a) The employer shall teach the following operations and skills:
  - (1) Practice and principles of propagation of plants.
  - (2) Pruning and cultivation of trees and shrubs.
  - (3) Plant protection.
  - (4) Use and care of horticultural implements.
- (b) He may also select additional operations and skills from the following:
  - (5) Glasshouse management.
  - (6) Cultivation and use of herbaceous plants.
  - (7) Raising and use of bedding plants.
  - (8) Treatment of alpine and bog plants.
  - (9) Establishment and maintenance of lawns and sports fields.
  - (10) Use of hormones and weedicides.

Dated this 12th day of May 1961.

A. TYNDALL, Judge.

---