

OAMARU BOROUGH COUNCIL LABOURERS—AWARD

In the Court of Arbitration of New Zealand, Otago and Southland Industrial District—In the matter of the Industrial Conciliation and Arbitration Act 1954; and in the matter of an industrial dispute between the Otago Labourers and Related Trades Industrial Union of Workers (hereinafter called “the union”) and the under-mentioned council and trust (hereinafter called “the employers”):

Oamaru Borough Council, Oamaru.
Oamaru Cemetery Trust, Oamaru.

THE COURT of Arbitration of New Zealand (hereinafter called “the Court”), having taken into consideration the terms of settlement arrived at in the above-mentioned dispute and forwarded directly to the Court pursuant to the provisions of section 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 31st day of December 1963 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 16th day of August 1962.

[L.S.]

K. G. ARCHER, Judge.

SCHEDULE

Hours of Work

1. (a) Unless otherwise provided herein, an ordinary week's work shall be 40 hours, to be worked between 7.30 a.m. and 5 p.m. on five days of the week, Monday to Friday, both days inclusive. An ordinary day's work shall not exceed eight hours.

(b) Workers shall not be required to work longer than five hours without an interval for a meal. The ordinary interval shall be one hour, but by agreement between the foreman and the workers concerned it may be reduced to not less than 30 minutes.

Wages

2. The following shall be the minimum rate of wages:

(a) Labourers, including men on pick and shovel work, cleaning drains, sweeping and cleaning streets, cutting grass, road and path formation (other than tarring), screening materials, and work of a similar nature: £13 5s. per week.

(b) Labourers engaged temporarily and employed on an hour to hour basis: 6s. 7½d. per hour.

(c) Labourers employed in the reserves or forestry or gardens departments: £13 5s. per week.

(d) Gardeners: £13 17s. 6d. per week.

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

(e) Cemetery workers: £13 15s. per week for a week of 40 hours: Provided that in order to enable this essential service to be efficiently maintained, the said 40 hours may be worked for eight hours per day on any five days, Monday to Saturday inclusive. Any work done on the sixth day shall be paid for at overtime rates specified in this award, and any work done on Sundays shall be paid for at double time rates. Cemetery workers shall be paid £1 for each disinterment or reinterment, in addition to ordinary rates. If required to work on Sundays or holidays a minimum of four hours shall be paid for each time the workers are called out.

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

(1) Quarry workers (other than the quarry foreman), when working 10 ft or more above the quarry floor 3½d. per hour.

(2) Men employed topping or pruning trees or cutting back branches, at a height of 10 ft or over from the ground, or men other than gardeners employed marking out or planting beds 2d. per hour.

Workers shall be provided with suitable gloves when working amongst thorny bushes.

(3) Workers employed carrying tar (other than in closed containers), or working with tar, or laying tar macadam, or working with tar distillate, weed-killer, and workers employed in pre-heating or boiling tar and covering tar with sand behind the sprayer 2¾d. per hour.

- (4) Nozzelman on the tar sprayer 5s. 9d. per day.
- (5) Men engaged on nightsoil work 3d. per hour.
 (NOTE—Men while so engaged shall be supplied with suitable oilskins, also an acetylene-lamp and carbide.)
- (6) Men employed in lifting household refuse 4s. 7½d. per day.
- (7) Workers employed at cleaning the liquefying tank at Orwell Street and workers employed on broken or blocked sewers who come in direct contact with sewage 10s. per day.
- (8) Workers engaged as drainlayers or watermen 5d. per hour.
 Stand-by watermen shall be rostered so that they shall have one complete weekend on duty and one weekend off, the system of rostering adopted to be decided on by the borough engineer. Stand-by watermen shall receive a further 1½d. per hour extra for stand-by duty.
- (9) Men employed in feeding concrete-mixers, or handling, mixing, or spreading wet concrete 2½d. per hour.
- (10) Racemen on viaducts 6d. per hour.
 Length-men on race using their own cars on the employer's business at the employer's request shall be paid in accordance with the regulations for the time being in force under the Fees and Travelling Allowances Act 1951.
- (11) Gangers or leading hands, while supervising 2s. 6d. per day.
 A "ganger" or "leading hand" is a worker in charge of three or more men.
- (12) Workers employed in shafts or trenches 6 ft or more in depth:
 Up to 12 ft in depth 2½d. per hour.
 Over 12 ft in depth 3d. per hour.
- (13) Workers other than gardeners or cemetery workers operating the following power-driven tools: gads, rippers, rammers, jack hammers, rotary hoes, motor-mowers, or tools of a similar nature 2½d. per hour.
- (14) Employees carrying tools upon or otherwise using their bicycles during working hours 6d. per day.
- (15) Scythe men and/or men hooking in grass 2s. per day.
- (16) Pumpmen and yardmen shall be paid 5d. per hour in lieu of all other extras provided in this clause.
- (17) An additional 7s. 6d. per week shall be paid to the worker called upon to clean the sanitary conveniences and furnace in the public gardens.
- (18) *Service Increment*—Five shillings per week additional shall be paid to each of the workers provided for in this clause, who as at the date of making of this award has been employed continuously with the same employer for one year or more or who subsequently completes one year with the employer.

Payment of Wages

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

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

Increase in Rates of Remuneration

4. On and after the 26th day of July 1962 the rates of remuneration 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 4th day of July 1962.

(EXPLANATORY NOTE—The general order of 4 July 1962, which took effect on 26 July 1962, increased rates of remuneration determined by awards and industrial agreements by an amount equal to 2½ per cent thereof, but excluded from the scope of the increase all allowances in respect of tools, bicycles, motor vehicles, protective or special clothing, or special footwear.

For the purposes of the general order the term “remuneration” in relation to rates determined by awards and industrial agreements is defined by the regulations as meaning salary or wages; and includes time and piece wages and overtime and bonus and other special payments; and also includes allowances, fees, commission, and any other emolument, whether in one sum or several sums; and also includes travelling expenses.)

Overtime

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

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

Holidays

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

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

(c) Each employee upon the completion of 12 months' service shall receive a fortnight's holiday on full pay: Provided that where a worker is dismissed or terminates his services he shall receive and be paid for such proportion of his service: Provided, further, that the annual holiday shall be three weeks in the case of stand-by watermen, pumpmen, and workers with 10 or more years' service.

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

Wet Places

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

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

(c) Ten minutes shall be allowed to wash and change gumboots. Where the worker wears gumboots he shall be paid 3d. per hour in addition to the ordinary rate of pay.

Accommodation, Sanitation, and General

8. (a) The employer shall provide accommodation at the council yards, the gardens, and the quarry to enable workers to change their clothes, and shall also provide sanitary accommodation and wash basins for the workers with means of cleaning and drying hands.

(b) Workers employed sealing or resealing with tar, or boiling tar, or bitumen laying, patching, spreading, spraying, or carrying bituminous compound or tar distillate, weed-killer, shall be allowed five minutes before meals and 10 minutes at knock-off time to wash and change. They shall be supplied with coconut-oil or other cleanser not harmful to the skin, and shall be supplied with clogs or boots, and goggles whilst so employed.

(c) When workers are working at open sewers or in water, flood-water, etc., or foul air, six hours shall constitute a day's work, eight hours to be paid for. Half an hour shall be allowed for crib-time, and two breaks of 15 minutes each shall be allowed during each six hours.

(d) The employer shall pay each worker an allowance of 5s. per week and each worker shall provide his own overalls.

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

Meal Money and Smoko

9. (a) When workers are called upon to work overtime after 5.30 p.m. and cannot reasonably get home for a meal, the employer shall provide a substantial meal on the job or, alternatively, shall pay meal money at the rate of 5s. per meal.

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

Variation of Duties

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

Tools

11. All tools shall be provided by the employer.

Accidents

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

Country Work

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

(b) An employer shall convey the worker free of charge or pay his fare to and from country work once every three months during the continuance of work. If, however, the worker is withdrawn from such work by the employer, or if he returns therefrom requiring medical attention in consequence of accident or

sickness arising out of and in the course of the employment, and is, in either case, again required on the work, the employer shall again convey him or pay his fare to and from such work.

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

(d) The employer shall either provide the worker while on country work with suitable board and lodging or, in lieu thereof, pay him for each working day the sum of 10s.: Provided that where, through circumstances within the control of the employer, a worker is employed upon country work for less than six consecutive days the employer shall provide such board and lodging and may not elect to make such payment in lieu thereof: Provided, further, that when the employer provides accommodation the payment in lieu of board shall be 9s. for each working day.

Union Representatives

14. For the purpose of securing the efficient operation of this award in accordance with section 173 of the Industrial Conciliation and Arbitration Act 1954, the union's representatives shall be allowed full access to all jobs covered by this award in order to interview any worker, but not so as to interfere unreasonably with the employer's business.

Job Stewards

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

Disputes Committee

16. Any dispute in connection with any matter not provided for in this award shall be settled by the employer and a representative of the union, and in default of any agreement being arrived at, then such matter shall be referred to the local Conciliation Commissioner, who shall either decide the matter or refer the same to the Court. Either side, if dissatisfied with the ruling of the Commissioner, may appeal to the Court upon giving notice of such appeal to the other party within 14 days after such decision shall have been communicated to the dissatisfied party.

Unqualified Preference

17. (a) Any adult person engaged or employed in any position or employment subject to this award by any employer bound by this award shall, if he is not already a member of a union of workers bound by this award, become a member of such union within 14 days after his engagement, or after this clause comes into force, as the case may require.

(b) Subject to subclause (a) hereof, every adult person so engaged or employed shall remain a member of a union of workers bound by this award so long as he continues in any position or employment subject to this award.

(c) Every worker obliged under subclause (a) hereof to become a member of a union who fails to become a member, as required by that subclause, after being requested to do so by an officer or authorised representative of the union, and every worker who fails to remain a member of a union in accordance with subclause (b) hereof commits a breach of this award.

(d) Every employer bound by this award commits a breach of this award if he continues to employ any worker to whom subclauses (a) and (b) apply, after having been notified by any officer or authorised representative of the union that the worker has been requested to become a member of the union and has failed to do so, or that the worker having become a member of the union has failed to remain a member.

(e) For the purpose of this clause "adult person" means a person of the age of 18 years or upwards, or a person who for the time being is in receipt of not less than the minimum rate of wages prescribed for adult workers by this award.

(NOTE—Attention is drawn to section 174H of the Industrial Conciliation and Arbitration Act 1954 which gives to workers the right to join the union.)

Under-rate Workers

18. (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.

Scope of Award

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

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 19th day of March 1962, 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 December 1963.

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 16th day of August 1962.

[L.S.]

K. G. ARCHER, Judge.

MEMORANDUM

The award, which incorporates the terms of settlement arrived at by the parties, includes a clause designed to operate as an unqualified preference provision within the meaning of section 174 of the Industrial Conciliation and Arbitration Act 1954 (as amended by the Industrial Conciliation and Arbitration Amendment Act 1961). Section 174B directs that the Court in making any award shall insert therein an unqualified preference provision only if it is satisfied under the first alternative that such a provision has been agreed upon by all the assessors in the course of an inquiry into an industrial dispute by a Council of Conciliation. For the purposes of section 174B the Court is satisfied to accept the complete settlement arrived at by the parties and executed by or on behalf of all the assessors as proof that the unqualified preference provision has been agreed to by all the assessors, and clause 17 has therefore been incorporated in the award in the form in which it was agreed upon in the Council of Conciliation.

K. G. ARCHER, Judge.
