
NEW ZEALAND CYCLE WORKERS—AWARD

[Filed in the Office of the Clerk of Awards, Wellington.]

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 Engineering, Coachbuilding, Aircraft and Related Trades Industrial Union of Workers (hereinafter called “the union”) and the under-mentioned union (hereinafter called “the employers”):

New Zealand Cycle Traders Industrial Union of Employers, 8–12 The Terrace, Wellington.

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 on the day of the date hereof and shall continue in force until the 22nd day of November 1964 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 November 1962.

[L.S.]

K. G. ARCHER, Judge.

SCHEDULE

Industry to Which Award Applies

1. (a) This award shall apply to adult workers and assistants in the cycle industry.

(b) "Adult workers" shall mean enamellers (including sprayers), frame-builders, wheel-builders, repairers, assemblers, and liners.

(c) "Cycle-mechanics' assistants" are workers employed under clause 5 hereof.

Hours of Work

2. (a) Forty hours shall constitute the ordinary week's work, of which not more than eight hours may be worked on each day from Monday to Friday inclusive, and between the hours of 7.30 a.m. and 5.30 p.m. The time of starting and ceasing work between these hours shall be mutually arranged in each establishment, with a break of not more than one hour for lunch.

(b) No worker shall be required to work more than four and a half hours continuously without an interval of at least three-quarters of an hour for a meal: Provided that this meal-hour may be reduced to half an hour by mutual agreement.

Overtime

3. (a) All work done on any day in excess or outside of the hours mentioned in clause 2 hereof shall count as overtime and shall be paid for as follows: time and a half for the first three hours and thereafter double time. Overtime shall be computed on a daily basis.

(b) The employer shall supply a suitable meal or allow meal money at the rate of 5s. 2d. per meal when workers are called upon to work overtime after 6 p.m. on Monday, Tuesday, Wednesday, Thursday, or Friday, or after 1 p.m. on Saturday or Sunday unless such workers can reasonably get home for a meal and return to their work in one hour, in which case the meal allowance need not be paid. Where a surcharge is made for Saturday, Sunday, or holiday meals, the employer shall refund any such excess charge actually paid by the worker.

(c) When a worker is called back to work after reaching his home he shall be paid a minimum of two hours at overtime rates.

Wages

4. (a) The minimum rate of wages for adult workers other than assemblers shall be 7s. per hour.

Assemblers in mass production factories shall be paid a minimum of 6s. 7½d. per hour.

(b) Workers employed on oxy-acetylene and electric welding shall be paid an allowance of 1s. 6d. if so employed for four hours or less, or 2s. 6d. per day if so employed for more than four hours in any day.

A worker who uses a welding torch occasionally shall not be entitled to the allowance.

(c) All wages shall be paid on dismissal of a worker or when a worker leaves of his own accord.

(d) Where a worker is specially directed by his employer to take charge of three or more other workers he shall be paid 3s. a day in addition to the rate herein prescribed.

(e) Each worker shall be entitled to a statement showing details of his earnings for each pay period and any deductions therefrom.

Assistants

5. (a) The proportion of assistants to adult workers shall not exceed one assistant to each adult worker. For the purpose of this clause an employer substantially engaged at work covered by this award shall be deemed to be an adult worker.

(b) For the purpose of determining the proportion of assistants to adult workers when engaging any new assistants, the calculations shall be based on the number of adult workers employed for two-thirds full time during the previous six months.

(c) The proportion of juniors in mass production factories shall be not more than two juniors to each fully paid adult worker.

(d) The following minimum weekly rates of wages shall be payable to assistants:

				Per Week		
				£	s.	d.
Under 16 years of age	.....	.....	.....	4	10	0
16 to 17 years of age	.....	.....	.....	5	5	0
17 to 18 years of age	.....	.....	.....	6	0	0
18 to 19 years of age	.....	.....	.....	6	15	0
19 to 20 years of age	.....	.....	.....	7	15	0
20 to 21 years of age	.....	.....	.....	8	15	0

Thereafter adult rates.

(e) Should any employer wish for any reason to dispense with the services of an assistant he shall give him a certificate showing the actual period of time worked and stating the branch or branches of the trade at which he has been employed. Such a certificate shall entitle the assistant to payment by a future employer at the wages herein provided according to the time actually worked at the trade.

(f) An employer who engages an assistant shall be deemed to have undertaken the duty of teaching him one or more branches of the trade as carried on by the employer, which duty shall be enforceable under this award.

Holidays

6. (a) The following shall be the recognised holidays: New Year's Day, 2 January, Good Friday, Easter Monday, the birthday of the reigning Sovereign, Labour Day, Christmas Day, Boxing Day, Anzac Day, and Anniversary Day (or a day in lieu thereof). No deduction from the wages of workers shall be made in respect of the holidays mentioned in this subclause.

(b) For work done on any of the holidays mentioned in this clause or on Sundays double time shall be paid.

(c) When any of the holidays mentioned in subclause (a) of this clause, except Anzac Day, falls on a Saturday or a Sunday, such holiday shall be observed on the following working day.

Annual Holidays

7. The provisions of the Annual Holidays Act 1944, and its amendments, shall apply to all workers employed under this award. Where it is customary for any employer to allow annual holidays to his workers or to any class of his workers during the period in each year when his premises are closed or the work of those workers is for any reason discontinued, and at the date of the commencement of

any such period any such worker has not become entitled to an annual holiday, then that worker shall not be entitled to any wages for two weeks following that date, but the employer shall before that date pay to him, in addition to all other amounts due to him at that date including amounts to which he is entitled in respect of any special holidays, an amount equal to one twenty-fifth of his ordinary pay for the period of his employment up to that date, and for the purposes of the Annual Holidays Act, the next year of his employment shall be deemed to commence on that date.

Terms of Employment

8. (a) Not less than 24 hours' notice of the termination of the employment shall be given by the employer or the worker, as the case may be, but this shall not prevent an employer from dismissing a worker summarily for wilful misconduct.

(b) The employer shall have the right to make a rateable deduction from the wages prescribed in this award for any time lost by a worker through his own default, sickness, or accident.

Right of Entry

9. The secretary or other authorised officer of the union of workers shall, with the consent of the employer or his representative (which consent shall not be unreasonably withheld), be entitled to enter at all reasonable times upon the premises or works, and there interview any workers, but not so as to interfere unreasonably with the employer's business.

Matters Not Provided For

10. 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 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.

General Conditions

11. (a) A 10-minute break, morning and afternoon, shall be allowed the workers without deduction from pay.

(b) Provision shall be made for an adequate supply of hot and cold water for washing facilities, excepting in those cases where the union is satisfied that it is impracticable to make the necessary provision.

(c) The employer shall supply to each worker a set of the necessary tools which shall remain the property of the employer.

(d) The employer shall provide reasonable facilities for supplying warmth for men working in workshops in cold weather.

(e) Each worker shall be supplied with two overalls in each year of his employment with the same employer, the first two overalls to be made available within one month of engagement. On the termination of employment each worker shall hand in his overalls to the employer or his agent.

"Overall" means boiler-suit, bib-overall, dust-coat, or drill apron as customarily worn by the worker.

(f) A first aid compressed kit, fully equipped, shall be kept in a convenient and accessible place in every works, and shall be open for inspection once a month by a union official.

(g) Provision shall be made for a supply of hot water at short notice.

(h) Where the worker is injured in the course of his employment and is obliged to attend hospital or a doctor for treatment during working hours, such worker shall be paid by the employer for time lost on the day of the accident, but not more than two hours.

Unqualified Preference

12. (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 purposes 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.)

Notification

13. Within one month after the date of coming into operation of this award each employer shall, if requested by the secretary of the union, either supply him with a list of all those workers in his employ covered by this award or provide facilities for the secretary to obtain this list. Thereafter at intervals of not less than six months, each employer shall, if required by the secretary of the union, supply a list of employees engaged since the last list was supplied.

Under-rate Workers

14. (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

15. 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

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

Term of Award

17. This award shall come into force on the day of the date hereof and shall continue in force until the 22nd day of November 1964.

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 November 1962.

[L.S.]

K. G. ARCHER, Judge.

MEMORANDUM

The award incorporates the terms of settlement arrived at by the parties in the course of an inquiry held before a Council of Conciliation.

Upon being satisfied by supporting documentary evidence that an unqualified preference provision has been agreed to by all the assessors in accordance with section 174B of the Industrial Conciliation and Arbitration Act 1954 (as enacted by the Industrial Conciliation and Arbitration Amendment Act 1961), the Court has inserted clause 12 in the award in the form in which it was agreed upon in the Council of Conciliation.

The rates of remuneration prescribed by this award are *not* to be increased by the application of the provisions of the Court's general order of 4 July 1962.

K. G. ARCHER, Judge.

**NEW ZEALAND CYCLE WORKERS—APPLICATION FOR EXEMPTION
FROM AWARD**

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 Morrison Industries Ltd., Hastings, for total exemption from the New Zealand Cycle Workers Award, dated the 22nd day of November 1962, and recorded in 62 Book of Awards 1947.

JUDGMENT OF THE COURT DELIVERED BY TYNDALL, J.

THE Court has before it an application from Morrison Industries Ltd. for total exemption from being bound as a subsequent party to the New Zealand Cycle Workers Award (62 Book of Awards 1947).

The application also states that in view of substantial doubts which exist as to whether or not the company is bound by the award from which exemption is being sought, the company alternatively submits that it is not so bound.

If the company is not bound by the award, the application for exemption will automatically lapse, consequently it is necessary for the Court to give first consideration to the alternative submission.

The company operates a factory at Omahu Road, Hastings, and has been in business since 1939. Prior to 30 April 1963 it was engaged in the manufacture of motor mowers and metal office chairs and over the years has been bound by the appropriate New Zealand Metal Trades awards. (Current award 62 Book of Awards 801.) On 30 April 1963 the company expanded its activities by commencing the manufacture and assembly of bicycles.

There have been awards for many years purporting to cover workers in the cycle industry, and since 1948 the terms of those awards have been settled in Conciliation Council.

Clause 1 of the current award reads:

1. (a) This award shall apply to adult workers and assistants in the cycle industry.
- (b) "Adult workers" shall mean enamellers (including sprayers), frame-builders, wheel-builders, repairers, assemblers, and liners.
- (c) "Cycle-mechanics' assistants" are workers employed under clause 5 hereof.

The above definition is not helpfully explicit.

In clause 4 the minimum rates of wages are prescribed under two headings, adult workers other than assemblers, and assemblers, and in clauses 4 (a) and 5 (c) there are references to mass production factories. It is not clear whether the award is intended to cover the manufacture of cycle components prior to assembly.

In examining the list of original parties to the award, we find there are only two, both being industrial unions, one the New Zealand Engineering, Coachbuilding, Aircraft and Related Trades Industrial Union of Workers and the other the New Zealand Cycle Traders Industrial Union of Employers. There are no representative employers named from which any assistance can be derived.

We are therefore called upon to examine the membership rule of the employers' union, the relevant portion of which is in the following terms:

Membership in the union shall be open to all employers engaged in the retail cycle trade in New Zealand and employing labour in connection therewith who may make written application for membership to the secretary who shall bring such applications before the executive committee for approval.

It should be mentioned that in the proceedings that led to the making of the 1954 award (54 Book of Awards 801) the employers' union was the applicant party.

It appears therefore that the employers' union which has negotiated the terms of settlement with the workers' union in the past eight years has been representative only of retail cycle traders, who have assembled and repaired bicycles as an activity incidental to their retail businesses. We understand Morrison Industries Ltd. is not engaged in the retail cycle trade and is therefore not eligible to become a member of the employers' union.

In these circumstances we must hold that the company is not bound as a subsequent party by the New Zealand Cycle Workers Award. As the manufacture of bicycles as distinct from their assembly must be regarded as a new industry possessing its own peculiar features, it would appear to be in the interests of all concerned if an industrial agreement were negotiated between the company and the workers' union.

Dated this 21st day of June 1963.

[L.S.]

A. TYNDALL, Judge.