

NEW ZEALAND PLASTERING 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 Plastering Industry.

WHEREAS application has been made to the Court by the New Zealand Plastering Apprenticeship Committee for a new apprenticeship order governing the conditions of apprenticeship in the plastering industry for the whole of New Zealand: And whereas the Court has heard the employers, workers, and other persons concerned and has considered the recommendations 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 said industry, and prescribing such other 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 plastering industry in the following branches: solid plastering, fibrous plastering, and tile fixing, (hereinafter called “the industry”).

2. *Application of Order*—The provisions of this order shall apply to all employers or 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 such industry, and to all contracts of apprenticeship (including those in force at the time of coming into force of this order) 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 engaging an apprentice shall furnish in writing to the local committee the names and particulars of the journeymen employed for the previous six months, and also the names and particulars of apprentices employed and the apprentice intended to be employed.

(c) An employer before taking an apprentice to learn a branch of 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 branch of the industry.

(d) An employer shall not be permitted to take an apprentice until he has been established in business for at least 12 months.

(e) A local committee may waive the requirements of subclause (d) of this clause in exceptional circumstances.

(f) In the case of a first application to a local committee an employer shall supply such particulars as the committee requires to satisfy itself regarding his qualifications as an employer, together with a declaration that the information supplied is accurate and true.

5. *Contracts to be Registered*—The parties to any contract of apprenticeship to which this order applies shall, within twenty-eight days of the commencement of the employment of the apprentice or the making of an alteration, as the case may be, submit the contract or the alteration to the District Commissioner for the locality concerned for registration. If the contract or alteration is not submitted for registration within the prescribed time, the parties thereto shall be severally liable to a penalty not exceeding twenty pounds.

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

7. *Prerequisite Education*—It shall be necessary for a person desiring to become an apprentice to produce to the local committee satisfactory evidence that he has completed two years' post-primary education; provided, however, that in any case where the proposed apprentice has not completed two years' post-primary education the New Zealand Committee upon application shall have power to waive the requirements of this clause subject to such conditions if any it may deem fit to impose.

8. *Term of Apprenticeship*—(a) Except as otherwise provided in this clause, the term of apprenticeship shall be 10,000 hours, divided into ten 1,000-hour periods.

(b) The term of apprenticeship for an apprentice who commences his apprenticeship before his eighteenth birthday and after the 14th day of June 1963 and who has had not less than three years' post-primary education shall be 8,000 hours, divided into eight 1,000-hour periods.

(c) The term of apprenticeship for an apprentice who commences his apprenticeship on or after his eighteenth birthday and after the 14th day of June 1963 shall be 8,000 hours, divided into eight 1,000-hour periods.

(d) Except for annual holidays under the Annual Holidays Act 1944, all holidays provided for in the award or agreement referred to in clause 11 of this order which are taken by an apprentice shall be deemed to be time served under his contract, reckoning eight hours for any one day. Time worked on such holidays shall be added to the time deemed to be time served.

(e) An apprentice shall make up any time lost by him in any 1,000-hour period through his own default or sickness or through accident or for any cause not directly connected with the business of the employer, before he shall be considered to have entered on the next succeeding 1,000-hour period of the apprenticeship, or if in the final period, to have completed the apprenticeship. Any time lost through accident arising out of and in the course of the employment shall be made up by the extension of the final period, with wages at the rate prescribed for that period.

(f) An apprentice working overtime shall have such time added to the ordinary time in calculating the respective 1,000-hour period of the apprenticeship. Each hour worked as overtime shall be deemed to be one hour for the purpose of computing each 1,000-hour period of apprenticeship.

(g) Except where otherwise provided only working hours shall be reckoned as time served.

(h) 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.

(i) A person who has attained the age of 18 years and who desires to enter into a contract of apprenticeship may apply for a special contract of apprenticeship under section 25 of the Apprentices Act 1948.

9. *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.

10. *Proportion*—(a) The proportion of the total number of apprentices to the total number of journeymen employed by any employer shall not be more than one to every two or fraction of two journeymen employed.

(b) Notwithstanding the provisions of subclause (a) of this clause one additional apprentice may be employed by any employer when there is an apprentice who has completed eight periods of his apprenticeship, but only one such apprentice additional to the number permitted by subclause (a) of this clause may be employed by any employer at any time. The apprentice whose entry into the ninth period has permitted the engagement of the additional apprentice shall not be reckoned as a journeyman for the purpose of calculating the proportion.

(c) The proportion of apprentices to journeymen employed by any employer shall, for the purpose of determining whether or not such employer is entitled to enter into a contract of apprenticeship with an apprentice, be based upon the number of journeymen who at the date of making application to the local committee had been employed by him full time for a period of not less than six months preceding that date.

(d) For the purpose of this order an employer who himself works at one of the branches of the industry shall be entitled to count himself as a journeyman in that branch only.

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

11. *Wages*—(a) Except as provided in subclause (b) of this clause the minimum weekly rates of wages payable to apprentices shall be the undermentioned percentages of an amount equal to 40 times the minimum hourly wage rate for journeymen in the branch to which the apprentice is apprenticed, as prescribed by the award or agreement relating to the employment of such journeymen in the locality in which the apprentice is employed and in force for the time being and from time to time—

	Column A For Apprentices Serving a 10,000-hour Term Per Cent	Column B For Apprentices Serving an 8,000-hour Term Per Cent
First 1,000-hour period	32	44
Second 1,000-hour period	37	49
Third 1,000-hour period	42	54
Fourth 1,000-hour period	47	59
Fifth 1,000-hour period	52	64
Sixth 1,000-hour period	57	69
Seventh 1,000-hour period	62	73
Eighth 1,000-hour period	67	77
Ninth 1,000-hour period	72	..
Tenth 1,000-hour period	77	..

(b) In the Canterbury Industrial District the minimum weekly rates of wages payable to apprentices shall be the undermentioned percentages of an amount equal to 40 times the minimum hourly wage rate for journeymen in the branch to which the apprentice is apprenticed, as prescribed by the award or agreement relating to the employment of such journeymen in the locality in which the apprentice is employed and in force for the time being and from time to time—

	Column A For Apprentices Serving a 10,000-hour Term Per Cent	Column B For Apprentices Serving an 8,000-hour Term Per Cent
First 1,000-hour period	35	45
Second 1,000-hour period	40	50
Third 1,000-hour period	45	55
Fourth 1,000-hour period	50	60
Fifth 1,000-hour period	55	65
Sixth 1,000-hour period	60	70
Seventh 1,000-hour period	65	75
Eighth 1,000-hour period	70	80
Ninth 1,000-hour period	75	..
Tenth 1,000-hour period	80	..

12. *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 order such apprentice to attend during three school terms at evening classes for two hours a week.

(b) As an alternative to evening classes as mentioned in sub-clause (a) the New Zealand Committee may order an apprentice to enrol for and complete 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 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 relating to his trade.

(d) Where an apprentice has been ordered to attend a course as provided in sub-clause (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 14 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.

13. *Apprentices from Overseas*—A person who has served part of his apprenticeship to a branch of 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 of Apprenticeship 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 shall 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.

14. *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 1,000-hour period, or for any time lost through his own default. 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 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.

15. *Hours*—The hours worked by an apprentice shall, subject to the provisions of any statute, be those normally worked by journeymen as prescribed by the award or agreement referred to in clause 11 of this order.

16. *Overtime*—(a) Subject to the provisions of the Factories Act 1946, an apprentice under 16 years of age shall not be required or permitted to work overtime more than five hours in any one week, except on country work.

(b) Apprentices over 16 years and under 18 years of age shall not be required or permitted to work more than 10 hours' overtime in any one week, except on country work.

(c) Apprentices under the age of 18 years may be required or permitted while on country work to work up to 14 hours' overtime in any one week, but not exceeding a total of 40 hours in any three-monthly period.

(d) An employer shall not permit an apprentice to work overtime after 5 p.m. on any night on which he has to attend classes at a school.

(e) Payment for overtime shall be calculated in the manner prescribed for journeymen in the award or agreement referred to in clause 11 of this order and at the wage rate received by the apprentice.

17. *Conditions of Award to Apply*—The conditions of the award or agreement referred to in clause 11 of this order, in so far as they relate to the method and time of payment of wages, holidays, country work, meal money, travelling time, suburban work, tool, brush, and overall allowance, and other matters (other than membership of union) relating generally to the employment of journeymen and not in conflict with this order, shall apply to apprentices.

18. *Tools*—The apprentice shall supply his own tools, but the employer may advance to him, by way of orders on suitable suppliers, sums sufficient to allow the purchase of tools suitable to the class of work on which the apprentice will be engaged, such advances to be repaid by deductions from the tool allowance payable by virtue of clause 17 of this order.

19. *Contracts to Accord with Act*—Every contract of apprenticeship shall accord with the provisions of the Apprentices Act 1948, and 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.

20. *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 (subject to appeal to the local committee) 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) It shall be a breach of this order for any apprentice to accept employment at his trade from any person other than his employer whilst serving his apprenticeship.

21. *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 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, provided that an employer may teach an apprentice such operations and skills of a branch of the industry to which this order applies, but which are not specified in the contract of apprenticeship, as come within the scope of his business.

(b) Every contract in the plastering branches 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.

(c) In every contract 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 thereof, and shall not be held to relieve the employer as contracting party of his contractual responsibilities.

22. *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.

23. *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.

24. *Revocation of Order*—The New Zealand Bricklaying, Masonry, and Plastering Industries Apprenticeship Order, dated the 14th day of April 1960, and recorded in 60 Book of Awards 662, and any amendments thereto are hereby revoked, in so far as they relate to solid plastering, fibrous plastering, and tile-laying, 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.

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

SCHEDULE

Solid Plastering

1. The use of tools.
2. Knowledge of materials used, their properties and setting qualities and additives.
3. Working knowledge of plans and details and specifications.
4. Preparation of surfaces.
5. Working knowledge of various methods of horsing moulds and running moulded work.
6. Methods of setting out, levels, squaring, plumbing and dotting.
7. Knowledge of correct scaffolding practice.
8. The safe use of mechanical equipment commonly used by plasterers.

Fibrous Plastering

1. The use of tools.
2. Working knowledge of plans and details.
3. Preparation of surfaces.
4. Methods and practice of making up moulds for casting cornice and enrichments of all types of fibrous plaster castings.
5. The casting of sheets, cornice and enrichments.
6. The fixing and stopping of fibrous plaster.
7. Knowledge of correct scaffolding practice.

Dated this 14th day of June 1963.

[L.S.]

A. TYNDALL, Judge.

MEMORANDUM

The Court has before it an application from the New Zealand Plastering Apprenticeship Committee for an apprenticeship order in the plastering industry. Up till recently a composite order covering the bricklaying, masonry, and plastering industries has operated (60 book of Awards 662).

In making an apprenticeship order for an industry the Court is required to have regard to section 13 (5) of the Apprentices Act 1948 which reads:

“Where a New Zealand Committee has been set up in connection with the industry concerned, the Court shall, in making any order under this section, take into account any recommendation that may be made by the Committee, and the Committee shall, where it can conveniently do so, ascertain the views of local Committees set up in connection with the industry before making any recommendation to the Court.”

It will be noted that the Court is directed to take into account any recommendation that may be made by the New Zealand Committee. After ascertaining the views of the five local apprenticeship committees, the New Zealand Committee has made a unanimous recommendation in favour of all the clauses of the proposed order except three.

Two of the clauses are recommended by a majority of the New Zealand Committee to take the following form:

“8. (c) In branches other than terrazzo work the term of apprenticeship for an apprentice who commences his apprenticeship before his eighteenth birthday and after (the date of the coming into effect of this order) and who has had not less than three years’ post-primary education shall be 8,000 hours, divided into eight 1,000-hour periods.”

“8. (d) Except in terrazzo work the term of apprenticeship for an apprentice who commences his apprenticeship on or after his eighteenth birthday and after (the date of the coming into effect of this order) shall be 8,000 hours, divided into eight 1,000-hour periods.”

The third clause is clause 11 dealing with the minimum rates of wages payable to apprentices. There is no recommendation from the New Zealand Committee on this provision, the members who voted being equally divided on the issue. Four members of the committee favoured the incorporation in the order of the percentages of the wage rate for journeymen which have operated in the Canterbury Industrial District in the solid plastering, fibrous plastering, and tile-laying industries since 1 March

1955 (55 Book of Awards 346), whereas the four other members who voted would not agree to a departure from the rates at present in operation in the plastering industry throughout the country with the exception of the Canterbury Industrial District.

Section 13 (3) of the Apprentices Act directs that before making any apprenticeship order the Court shall afford the employers and the workers in the industry, and any other persons whom the Court may deem to be concerned, an opportunity of being heard and of calling evidence in respect thereof.

On 4 June 1963 such an opportunity was afforded to the employers and workers in the industry. Mr Taylor appeared on behalf of the following organisations of employers to oppose the recommendation of the New Zealand Committee in regard to clauses 8 (c) and 8 (d), and also to oppose the adoption of the suggestion that the Canterbury scale of wage rates should be applied to the whole of the industry throughout the country: The New Zealand Fibrous Plaster Manufacturers Industrial Association of Employers, the Auckland Provincial Plasterers and Fibrous Plasterers Industrial Union of Employers, the Wellington Industrial District Plasterers and Fibrous Plasterers Industrial Union of Employers, and the Otago and Southland Fibrous and Solid Plasterers and Tile Fixers Industrial Union of Employers. Mr Langley appeared on behalf of the New Zealand (except Otago and Southland) Carpenters, Joiners, Joiners' Machinists, and Plasterers and (except Auckland) Bricklayers, and Related Trades Industrial Union of Workers in support of the recommendation of the New Zealand Committee and of the general application of the Canterbury scale of wage rates. He drew attention to the fact that on 6 November 1962 an amendment to the New Zealand Painting and Decorating Industry Apprenticeship Order (62 Book of Awards 1980) was made in which the prescribed scale of wage rates represents a departure from the Court's usual scale. No evidence was called by either Mr Taylor or Mr Langley in support of their submissions.

After considering the issues the Court has decided it should accept the recommendation of the New Zealand Committee except in regard to terrazzo work to which further reference is made below.

Concerning clause 11 dealing with rates of wages upon which no recommendation is before it, the Court is not disposed in all the circumstances to vary its usual scales of percentages, and therefore the new apprenticeship order will incorporate such scales with the exception that the scales applicable in the Canterbury Industrial District will be similar to those appearing in the current composite order.

It should be pointed out that in the cases of the wage scales prescribed in the New Zealand Painting and Decorating Apprenticeship Order and also of those prescribed for apprentices to solid plastering and fibrous plastering in the Canterbury Industrial District there was complete agreement between the organisations of employers and workers directly involved, whereas in the case now before the Court there is no such unanimity.

With the object of removing an element of inconsistency, the Court has not seen fit to include terrazzo work as a branch of the industry to which the apprenticeship order is to apply. Such work falls within the ambit of the New Zealand (except Westland) Stonemasons award of 4 June 1963 (63 Book of Awards . . .) and as it is not intended that the new order should apply to "stone and/or monumental masonry" as is provided for in the composite apprenticeship order now being further partially superseded, it is considered that it would be more appropriate for that order to remain in operation for both these classes of work.

A. TYNDALL, Judge.