

## NEW ZEALAND INSURANCE 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 General Insurance Industrial Union of Workers (hereinafter called “the union”) and the under-mentioned persons, firms and companies (hereinafter called “the employers”):**

### NORTHERN INDUSTRIAL DISTRICT

Alliance Assurance Co. Ltd., 5 O'Connell Street, Auckland.  
Australasian T. and G. Mutual Life Society, Auckland.  
Hunt, P. L., Ltd., Wrights Building, Fort Street, Auckland.  
New Zealand Co-operative Dairy Co. Ltd., Hamilton.  
New Zealand Insurance Co. Ltd., Queen Street, Auckland.  
South British Insurance Co. Ltd., Shortland Street, Auckland.

### TARANAKI INDUSTRIAL DISTRICT

Alliance Assurance Co. Ltd., Brougham Street, New Plymouth.  
A.M.P. Society, Devon Street, New Plymouth.  
Nolan and Co., Devon Street, New Plymouth.

### WELLINGTON INDUSTRIAL DISTRICT

A.M.P. Society, Customhouse Quay, Wellington.  
Australasian T. and G. Mutual Life Society, Napier.  
Australasian T. and G. Mutual Life Society, Wellington.  
Colonial Mutual Life Association, Wellington.  
Council of Fire and Accident Underwriters Association, 97 The Terrace, Wellington.  
Dominion Life Insurance Office of N.Z. Ltd., Wellington.  
Dugan, C. L., and Co., 75 Ridgway Street, Wanganui.  
Lumley, Edward and Sons (N.Z.) Ltd., Brandon House, Featherston Street, Wellington.  
Mutual Life and Citizens' Assurance Co. Ltd., 80 Victoria Street, Wanganui.

## MARLBOROUGH INDUSTRIAL DISTRICT

Fuller, Graham, Alfred Street, Blenheim.  
National Insurance Co. Ltd., Blenheim.  
South British Insurance Co. Ltd., Blenheim.

## NELSON INDUSTRIAL DISTRICT

A.M.P. Society, Nelson.  
Buxton and Co. Ltd., Nelson.  
New Zealand Insurance Co. Ltd., Nelson.

## WESTLAND INDUSTRIAL DISTRICT

Baillie, Neville and Co., Greymouth.  
Provident Life Assurance Co. Ltd., Greymouth.

## CANTERBURY INDUSTRIAL DISTRICT

British Traders Insurance Co. Ltd., Hereford Street, Christchurch.  
Colonial Mutual Life Assurance, 187 Hereford Street, Christchurch.  
S.I.M.U., Christchurch.  
Sun Insurance Office Ltd., Hereford Street, Christchurch.

## OTAGO AND SOUTHLAND INDUSTRIAL DISTRICT

Caw, R. B., and Co., 21 Tay Street, Invercargill.  
Mercantile and General Insurance Co. Ltd., 19 Bond Street, Dunedin.  
National Insurance Co. Ltd., P.O. Box 539, Dunedin.  
Provident Life Assurance Co. Ltd., Dunedin.  
Victoria Insurance Co. Ltd., Dunedin.

THE Court of Arbitration of New Zealand (hereinafter called "the Court"), having taken into consideration the matter of the above-mentioned 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 on the day of the date hereof and shall continue in force until the 6th day of January 1966 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 6th day of July 1964.

[L.S.]

A. TYNDALL, Judge.

## SCHEDULE

*Industry to Which Award Applies*

1. (a) This award shall apply to all members of the indoor clerical staff and inspectors who are in receipt of less than £50 in excess of the maximum general award scale or as such scale is increased by any general award order and who are engaged either wholly or for the greater part of their time in insurance work and/or trustee or executor duties for any insurance company or any insurance company acting as agents for any trustee and executor company of any institution or company subsidiary to any insurance company, or merged in any insurance company, and to all other such officers who are engaged wholly or for the greater part of their time in insurance work for other companies or employers carrying on insurance business in New Zealand.

(b) Industrial superintendents supervising four or more agents shall be paid not less than £17 per week by way of salary, commissions, and/or other earnings and shall be allowed an annual holiday as prescribed in this award, but shall not otherwise be bound by the provisions hereof, except that clause 15 (Unqualified Preference) shall apply.

(c) Messengers employed substantially as such shall not be bound by this award.

*Salaries*

2. The following shall be the minimum salaries payable:

(a) *Males—*

	£
First year .....	400
Second year .....	445
Third year .....	492
Fourth year .....	550
Fifth year .....	613
Sixth year .....	665
Seventh year .....	713
Eighth year .....	760
Ninth year .....	807
Tenth year .....	854
Eleventh year .....	896
Twelfth year .....	933
Thirteenth year .....	965
Fourteenth year .....	985
Fifteenth year .....	1,007
Sixteenth year .....	1,027
Seventeenth year .....	1,050
Eighteenth year and thereafter .....	1,075

*Females—*

First year .....	400
Second year .....	445
Third year .....	485
Fourth year .....	527
Fifth year .....	559
Sixth year .....	586
Seventh year .....	613
Eighth year .....	634
Ninth year .....	656
Tenth year .....	678
Eleventh year and thereafter .....	700

Employees with School Certificate on commencing their first employment shall receive one year's advancement on the above appropriate salary scale.

Employees with University Entrance commencing their first employment shall receive two years' advancement on the above appropriate salary scale.

In addition to the foregoing rates employees attaining the following qualifications shall be paid the additional rates shown:

Associateship of the Insurance Institute of New Zealand by examination	.....	.....	.....	.....	.....	£15 per annum
Fellowship of the Insurance Institute of New Zealand by examination	.....	.....	.....	.....	.....	£30 per annum

(b) For the purpose of determining the commencing salary, time worked in any clerical or shorthand typists' capacity shall be counted as if it had been time worked in an insurance office.

(c) Where a worker of 55 years or over is employed under this award without insurance experience, he shall be paid not less than the salary provided herein for the ninth year, and increments shall be arranged by agreement between the union and the employer.

#### *Hours of Work*

3. The normal working week shall be Monday to Friday inclusive, and the total hours worked shall not exceed  $37\frac{1}{2}$ , except that in special cases an employee may be required to work a greater number of total hours, but not exceeding 40 without payment of overtime. Office hours shall commence not earlier than 8 a.m., with time off for lunch between noon and 2 p.m.

#### *Overtime*

4. (a) All hours worked in excess of 40 hours per week shall be regarded as overtime and shall be paid for at the rate of time and a half for the first four hours on any one day and double time thereafter.

(b) An employee required to work overtime beyond 6 p.m. on any day shall be paid 5s. 3d. meal money unless he or she can reasonably go home for the meal in the time allowed.

(c) Nothing in this clause shall apply to fire, accident and marine office inspectors, motor claims assessors and life office industrial superintendents.

#### *Existing Conditions*

5. No worker shall have his or her salary reduced, nor shall any worker have his or her annual holiday reduced by reason of the coming into force of this award, so long as the worker remains in the present employment.

#### *Sick Leave*

6. Sick leave up to 14 days per annum shall be granted on full pay, provided medical evidence of incapacity (if required) is produced to the employer.

#### *Payment of Salaries*

7. Salaries shall be paid fortnightly and not later than Thursday in the pay week.

#### *Termination of Employment*

8. Two weeks' notice of the termination of the employment shall be given by either party.

### *Delegate to Union Conference*

9. Any employee appointed a delegate to the annual conference of the union shall be granted the requisite leave without deduction from salary or loss of holidays.

### *Holidays*

10. (a) Every employee after 12 months' service shall be entitled to two weeks' leave of absence per annum on full pay. Every employee with 10 years' service and over shall be entitled to three weeks' leave of absence per annum on full pay. An employee entitled to three weeks' annual leave whose service is terminated for other than wilful misconduct shall be paid a *pro rata* holiday allowance.

For the purpose of determining the above holidays, time worked in any clerical, typist's, or shorthand typist's capacity shall be counted as if it had been worked in an insurance office.

(b) The following shall be paid holidays, and shall not be considered as part of the annual leave: New Year's Day and the following day, Anzac Day, Good Friday, Easter Monday and the following day, the Anniversary Day in each province, the birthday of the reigning Sovereign, Labour Day, Christmas Day, Boxing Day and the following day. Should New Year's Day and the following day, Christmas Day, Boxing Day and the day following, or Anniversary Day fall on either a Saturday or a Sunday the next succeeding working day or days shall be observed in their stead.

(c) In any locality where any of the above holidays is not generally observed another may be substituted by mutual agreement between the employers and the union subject, however, to the proviso that in the place of Anniversary Day employers in Christchurch and Napier districts shall observe Show Day. Invercargill and Southland employers shall observe the same Anniversary Day holiday as Otago or a day in lieu thereof.

### *Right of Entry*

11. The secretary or other authorised representative of the union shall be entitled at all reasonable times, but not so as to interfere unreasonably with the employer's business, to enter upon the premises of any employer bound by this award for all or any of the following purposes:

- (a) To inspect the time and wages records of the employer in so far as they relate to workers bound by this award.
- (b) To interview any worker bound by this award in connection with its operation.
- (c) To make inquiries necessary for the effective operation of this award in so far as such inquiries relate to workers bound by this award.

### *Part-time Workers*

12. Where a worker is unable to accept full-time employment the employer shall pay *pro rata* the appropriate scale salary plus 10 per centum.

This provision shall not be used for the purposes of reducing the hours of work or the earnings of any worker.

### *Conditions as to Employees*

13. Every employer shall permit his employees, should they so desire, to have their lunches during the period provided, on the premises.

### *Disputes*

14. 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.

#### *Unqualified Preference*

15. (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.)

#### *Under-rate Workers*

16. (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 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*

17. 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*

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

#### *Term of Award*

19. This award shall come into force on the day of the date hereof and shall continue in force until the 6th day of January 1966.

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 6th day of July 1964.

[L.S.]

A. TYNDALL, Judge.

#### MEMORANDUM

The matters referred to and settled by the Court related to salaries (clauses 1 (b) and 2 (a)), meal money (clause 4 (b)), annual leave (clause 10 (a)), claim for long service leave, and term of award.

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 15 in the award in the form in which it was agreed upon in the Council of Conciliation.

On 14 April 1964 when this dispute was heard by the Council of Conciliation, the New Zealand General Insurance Industrial Union of Workers as applicant amended its claims pursuant to the authority contained in section 122 of the Industrial Conciliation and Arbitration Act 1954. The amendments involved increases in some of the wage rates shown in clause 2 (a) of the union's original claims and also a change in clause 10 (a) of the claims dealing with holidays. These amendments were recorded under the hand of the Conciliation Commissioner in the documents forwarded to the Court in accordance with section 131 of the statute.

When the case came before the Court, Mr Hadley, on behalf of the applicant union, asked the Court to allow certain further amendments to the union's claims. These amendments were stated to be:

- (a) A literal amendment to clause 2 (salaries) to specify exactly the diplomas which qualify holders for certain additional remuneration therein provided.
- (b) A substitution of a new scale for female workers in the same clause.
- (c) An increase from 6s. to 6s. 9d. in the amount claimed for meal money in clause 4 (overtime).

In the past the Court has declined to recognise amendments to claims by applicants or statements by respondents which have not been made either before or during the hearing of a dispute by a Council of Conciliation. It is now contended that although no express power is given to the Court by the Act or regulations or any rules made thereunder to recognise such amendments, the Court as a Court of Record and in the absence of any express provision must be taken to have an inherent power to make such amendments as may be necessary to enable it to determine the real matters in dispute between the parties before it. It is argued that the Court is master of its own procedure (as distinct from jurisdiction which is statutory) and that such a power seems to be implicit in section 36 of the Act. It is pointed out that the rules of practice in almost all other Courts contain provisions for the making of such amendments.

We are not disposed to accept these contentions. We would cite the decision of the Supreme Court in *Wellington Foreman Stevedores, Timekeepers and Permanent Hands Industrial Union of Workers v. Tyndall and others* (43 Book of Awards 877 at 882) in which Myers C.J. in dealing with the Industrial Conciliation and Arbitration Act said:

It is an Act of a very special nature, an Act affecting status—a code in itself—and (except as to matters of fundamental principle) there cannot be read into it by implication the procedure laid down by rules made in respect of other jurisdictions.

We would draw attention to section 131 of the statute which appears to contemplate that any amendments to the claims of applicants or the statements of respondents should be within the knowledge of Councils of Conciliation and of the Conciliation Commissioner. Such would not be the case if amendments were allowed after a dispute has been referred to the Court for settlement under section 133.

We would also draw attention to section 117 (2) which appears to be limited to proceedings before the reference of a dispute to the Court. Under section 124 (1), a Council of Conciliation is charged with the duty of carefully inquiring into a dispute and all matters affecting the merits and the right settlement thereof. It is difficult to appreciate how a council could perform its functions if all matters in connection with the dispute were not before it.

When a dispute is referred to the Court by the Clerk of Awards under section 133, we think that the bounds of the dispute have been determined and this view appears to be supported by section 131 (2).

If amendments involving increases in the rates of wages proposed by the applicants were allowed by the Court, it would seem that amendments involving reductions in the rates claimed should also be allowed. In our opinion the acceptance of such amendments would not be fair to parties who after negotiation have reached a partial settlement upon a clear understanding as to the exact nature of the matters which would be referred to the Court and argued before it. If such amendments had been before the Council, it is conceivable that a different partial settlement could have been arrived at, or even a total settlement reached.

The application to allow further amendments to the claims in the dispute before us is declined.

A. TYNDALL, Judge.