

HAWKE'S BAY LOCAL BODIES' GARDENERS AND GENERAL WORKERS—AWARD

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

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 industrial dispute between the Wellington, Nelson, Westland, and Marlborough Local Bodies, other Labourers, and Related Trades Industrial Union of Workers (hereinafter called “the union”) and the undermentioned boards and councils (hereinafter called “the employers”):

Dannevirke Borough Council, Dannevirke.
 Dannevirke Electric Power Board, Dannevirke.
 Hastings City Council, Hastings.
 Havelock North Borough Council, Havelock North.
 Hawke's Bay Electric Power Board, Hastings.
 Napier City Council, Napier.
 Napier Harbour Board, Napier.
 Taradale Borough Council, Taradale.
 Waipawa Borough Council, Waipawa.
 Waipukurau Borough Council, Waipukurau.
 Wairoa Borough Council, Wairoa.
 Wairoa Electric Power Board, Wairoa.
 Woodville Borough Council, Woodville.

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 27th day of November 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 27th day of May 1965.

[L.S.]

A. P. BLAIR, Judge.

SCHEDULE
Application

1. This award shall apply to the operations of the local authorities bound hereby and to the workers employed by such.

Hours of Work

2. (a) Except where otherwise provided, the ordinary hours of work shall be 40 per week, not exceeding eight per day, to be worked between the hours of 7.30 a.m. and 5 p.m. from Mondays to Fridays inclusive.

(b) When any special emergency arises the employers may vary the daily starting time of their workers, but so that the eight-hour day and 40-hour week be not exceeded without payment of overtime.

(c) *Special Engagements (Baths and Motor Camps)*—Notwithstanding anything contained elsewhere in this award, the hours of work and remuneration of workers engaged for seasonal periods for attendance at baths or motor camps shall be subject to mutual arrangements between the employer concerned and the union: Provided such arrangements are settled prior to any engagement.

(d) For the purposes of calculating the hours of work, each of the statutory holidays mentioned in clause 9 of this award shall be deemed to be a day worked for the number of hours usually worked on that day of the week, although no work shall have been done on such holidays.

(e) The foregoing provisions as to hours of work may be varied in respect of any particular class of work by mutual arrangement between the employer and the union.

Wages

3. (a) All workers coming under this award (except those specified in subclauses (b), (c), and (d) of this clause) shall receive a minimum weekly wage of £14 15s. 11d.

(b) All casual workers coming under this award shall be paid at the rate of 7s. 8d. per hour.

(c) All first-class gardeners and plant propagators shall receive a minimum weekly wage of £16 13s.

(d) Refuse collectors and tipmen shall receive a minimum weekly wage of £15 8s. 6d. but they may be employed outside the clock hours prescribed, provided they shall receive a minimum weekly wage of £15 14s.

Turncocks shall receive a minimum weekly wage of £16 5s. 9d. but for the supervising turncock of the city of Napier subclause (a) of clause 2 and clause 8 shall not apply and he shall receive a minimum weekly wage of £19 3s. 8d.

Pumping station attendants shall receive a minimum weekly wage of £15 18s. 6d.

Night watchmen shall receive a minimum weekly wage of £15 0s. 5d.

Bath attendants shall receive a minimum weekly wage of £15 15s. 10d. Local bodies where the population is not more than 4,000 shall be exempt from these provisions.

Cemetery sextons shall receive a minimum weekly wage of £14 17s. 9d. Local bodies where the population is not more than 4,000 shall be exempt from these provisions and shall pay to casual workers the rate of 8s. 0½d. per hour.

Men regularly employed on water reticulation shall receive a minimum weekly wage of £15 11s. 3d.

Where the work of the local body requires that men shall be employed continuously on nightsoil collection, they shall receive £3 9s. 4d. per shift of eight hours and shall be exempt from the clock hours prescribed in subclause (a) of clause 2 of this award.

(e) In addition to the rates prescribed in this clause, the following classes of workers coming within the scope of this award shall receive the following rates:

Drainlayers and/or caulkers: 2½d. per hour extra.

Drainlayers and/or caulkers (dirty work) and men cleaning blocked sewers or working in defective drains or coming into contact with faecal or sewerage matter: 6d. per hour extra.

Workers employed cleaning or flushing septic tanks shall be paid 10½d. per hour extra.

Men using explosives: 5½d. per hour extra.

Quarrymen, metal-pit workers, and men employed in excavations over 12 ft and under 40 ft in depth or face, provided such men are actually working on such face: 3½d. per hour extra.

Quarrymen, metal-pit workers, and men employed in excavations over 40 ft in depth or face, provided such men are actually working on such face: 4½d. per hour extra.

Gangers or leading hands: 6d. per hour extra.

Bitumen or tar workers: 5d. per hour extra.

Pumping station attendants (part time): 6½d. per hour extra.

Tunnelmen or timbermen: 6½d. per hour extra.

Men employed in sinking sumps or pier holes over 6 ft: 3½d. per hour extra.

Men employed in feeding concrete mixer, or handling, mixing, or spreading wet concrete: 4½d. per hour extra.

Grass cutters (hand-scythe): 4½d. per hour extra.

Motor-mower operators: 5½d. per hour extra: Provided that this payment shall not apply to workers paid as first-class gardeners.

(f) Men casually engaged on water reticulation: laying mains, 4½d. per hour extra; service repairs and well-sinking, 5½d. per hour extra.

(g) No reduction shall be made in the wages of any worker at present employed by virtue of the coming into force of this award.

(h) To all workers covered by the provisions of this award who have been employed continuously by any employer bound by this award, service bonuses shall be paid in accordance with the following scale:

	Per Week		
	£	s.	d.
Exceeding one year but less than two years	5	6
Exceeding two years but less than three years	11	2
Exceeding three years but less than four years	14	0
Exceeding four years but less than 10 years	18	0
Exceeding 10 years but less than 15 years	1	1 9
Exceeding 15 years	1	7 2

For the purposes of this clause the word "continuously" shall mean regular employment by any of the employers covered by this award, and shall include any temporary absence from work due to sickness, accident, or other cause not due to any wilful default of the worker.

(i) The holders of certificates issued under the Royal New Zealand Institute of Horticulture Act 1953 shall be paid the following additional rates:

	Per Week		
	s.	d.	
Junior	10	0
Intermediate	13	4
Full diploma	20	0

Definitions

4. (a) A foreman or overseer is a worker responsible for the carrying out of the work and not performing manual work, and who may proceed from job to job, and who gives directions and/or instructions. Nothing in this award shall apply to such worker.

(b) A ganger or leading hand is a worker in charge of three or more other workers or who is appointed by the employer as such.

(c) *Wet Place*—A “wet place” shall be deemed to be a place where workers are required to work in water over 1 in. in depth or where water other than rainwater is dripping on them.

(d) *Tunnel Work*—A “tunnel” shall mean any underground excavation that is over 10 ft in length or any shaft or excavation over 12 ft in depth, or which requires timbering overhead.

(e) A “first-class gardener” is a worker who is competent to, or who is engaged to, do the work of a nurseryman, or a landscape gardener, or a plant propagator. The employer shall supply the union with the name of any worker coming under this classification within one month after his engagement or after the date of this award.

(f) *Casual Workers*—A casual worker shall be paid on an hourly basis. A “casual worker” is one employed for less than one week.

(g) *Weekly Workers*—Weekly workers shall be paid on a weekly basis. A “weekly worker” is one employed for more than one week.

(h) A tar or bitumen worker is a worker working with tar or bituminous substances.

(i) Men regularly engaged on water reticulation are men who work more than 21 hours in any one working week on such work, and who are engaged in laying mains or service repairs or well-sinking.

Varying Duties

5. (a) Where a worker is engaged for any period on more than one class of work he shall be paid at the rate specified for each class of work for the actual time he has been so employed on each class.

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

Allowances for Motorcars and Bicycles, etc.

6. (a) When a worker is required to use his own bicycle in conjunction with his work he shall receive a bicycle allowance of 4s. per week.

(b) Workers required to use their own motor cycles or motorcars for the purposes of their employment shall receive an allowance as agreed upon between the worker and the employer, but any such agreement shall be subject to review between the employer and the union if necessary.

Tools

7. (a) All tools shall be supplied by the employers.

(b) Protective gloves and overalls shall be provided for workers engaged in the removing or disposing of refuse and to men engaged in clearing blocked sewers, or in nightsoil removal, or who come in contact with faecal matter. Employers shall keep in each convenience or restroom in which attendants are employed a pair of suitable waterproof rubber gloves. Waterworks reticulation workers shall be supplied with overalls.

(c) Workers working with tar or bituminous substances shall be supplied with boots and overalls and a cleansing substance as approved by the Department of Health.

(d) Employers shall supply suitable oilskin raincoats, sou'westers, leggings, and waterproof footwear to surfacemen when they are required to work in wet weather and to workers required in wet weather to clear sumps, culverts, drains, or water

tables, and to men employed on nightsoil and refuse collection. Workers using oilskin raincoats shall be held responsible for any loss or damage due to wilful destruction or neglect.

Overtime

8. (a) Work performed outside or in excess of the daily or weekly hours specified in clause 2 hereof shall be paid for at the rate of time and a half for the first three hours and double time thereafter. Overtime shall be calculated on a weekly basis.

(b) Work performed on Sundays or holidays shall be paid for at double ordinary rates with a minimum payment of two hours.

(c) Any worker who has completed a day's work and left the job and/or who in ordinary circumstances would not be on duty and who is called upon to resume duty shall be paid a minimum of two hours at overtime rates.

Holidays

9. (a) All workers covered by this award shall receive and be paid for the following holidays: New Year's Day, 2 January, Good Friday, Easter Monday, Anzac Day, the birthday of the reigning Sovereign (or any day substituted therefor), Labour Day, Christmas Day, Boxing Day, a show day, or one other day to be agreed upon by the employer and the union.

(b) In the event of a holiday, other than Anzac Day, falling on a Saturday or Sunday, such holiday shall be observed on the succeeding Monday, and in the event of another holiday falling on such Monday, such other holiday shall be observed on the succeeding Tuesday.

(c) The employer shall pay one-tenth of a day's ordinary wages to each worker in respect of each ordinary day worked by him for that employer during the fortnight ending on the day of any holiday referred to in subclause (a) of this clause: Provided that for the purposes of this subclause workers whose employment is covered by this award shall be deemed to be subject to the provisions of section 28 (2) of the Factories Act 1946, as amended by section 6 of the Factories Amendment Act 1956.

(d) Except as otherwise provided, any work done on any of the above holidays or on Sundays or Anzac Day shall be paid for at double time rates. Such payment shall be in addition to the payment provided for in subclause (a) of this clause.

(e) The provisions of the Annual Holidays Act 1944 shall be deemed to be incorporated in this award and shall have effect according to their tenor.

(f) Workers whose duties are continually spread over a week of seven days shall be granted three weeks' holiday in lieu of the holidays provided in subclause (e) of this clause.

Deductions

10. (a) Subject to the provisions of subclause (b) of this clause, the employer may make a rateable deduction from the weekly wages prescribed for time lost by the worker through default, accident, or sickness.

(b) Employees shall be entitled to be paid for five days' sick leave during any year of service. If such payment is not made in any year, the leave may be accumulated to a maximum of 15 days.

(c) If the absence from work extends for more than one day the worker, if required by the head of the department concerned, shall supply a medical certificate to establish the reason and nature of the sickness.

Payment of Wages and Termination of Engagement

11. (a) Wages shall be paid weekly in the employer's time not later than Thursday in each week. Such day may be changed by agreement with the union in any case where local banking facilities preclude paying on Thursday.

(b) All time workers are kept waiting for wages beyond the ordinary knock-off time on pay day shall be paid for at overtime rates.

(c) In the case of weekly workers, one week's notice on either side shall terminate the engagement. In the case of casual workers, two hours' notice on either side shall terminate the engagement.

Wet Places, Tunnels, and Underground Work

12. (a) Where workers are called upon to work in water, slush, mud, or wet concrete 1 in. or more in depth, the employer shall provide such workers with gumboots suitable for the work and shall pay them 3d. per hour extra. If proper gumboots are not supplied in such circumstances, the employer shall pay the workers a total payment of 7d. per hour extra.

(b) Six hours shall constitute a day's work in tunnel work when workers are working in wet places or foul air. Workers employed under this subclause shall be paid for each shift of six hours as if eight hours had been worked. A "wet place" shall mean a place where a worker has to stand in not less than 2 in. of water or where water other than rain is dripping on him.

Suburban Work

13. Workers shall be at the place where the work is to be performed at the time appointed for the commencement of the work, but should such place be beyond $1\frac{1}{2}$ miles from the employer's chief or principal depot in any of the towns covered by this award the workers shall be paid for the time reasonably occupied by them in walking to and from such work beyond the $1\frac{1}{2}$ miles, or they shall be conveyed to and from such work at the cost of their employers; but no worker residing less than $1\frac{1}{2}$ miles by a convenient mode of access for foot passengers from the place where the work is to be performed shall be entitled to the allowance mentioned in this clause. All time shall be allowed for at the rate of 3 miles per hour walked. On suburban work, wages may be paid as agreed upon by the employer and the workers concerned in such work.

Unqualified Preference

14. (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

15. (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.

Sanitary Accommodation, Shelter, and First Aid Outfits

16. (a) At the main depot each employer shall provide accommodation to enable workers to change and have their meals. Such accommodation shall include washing facilities including hot and cold water, soap and towels. The employer shall also provide proper sanitary accommodation.

(b) A suitable first aid outfit shall be provided by the employer on all jobs and with each refuse truck. A suitable stretcher shall be provided by the employer in each metal pit and quarry.

(c) Where the work of the local body requires men to be employed continuously on nightsoil work they shall be supplied with suitable accommodation to take their meals and change their clothing. They shall be supplied with hot and cold showers, towels, and soap.

Disputes

17. The essence of this award being that the work of the employer 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 with this award and not dealt with herein, 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.

Application of Award

18. 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 that part of the industrial district to which this award relates.

Scope of Award

19. This award shall operate throughout that portion of the Wellington Industrial District which is comprised in the Provincial District of Hawke's Bay, and shall apply to borough councils, town boards, power boards, and harbour boards; but this award shall not apply to county councils or hospital boards.

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 first day of the pay week in each establishment commencing on or after the 10th day of May 1965, 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 27th day of November 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 27th day of May 1965.

[L.S.]

A. P. BLAIR, Judge.

MEMORANDUM

The award, including the operative date of provisions relating to wages, 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 14 in the award in the form in which it was agreed upon in the Council of Conciliation.

A. P. BLAIR, Judge.