

1975/142



THE AGRICULTURAL WORKERS (ORCHARDS AND
VINEYARDS) ORDER 1975

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 16th day of June 1975

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to Part III of the Agricultural Workers Act 1962, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

ORDER

1. Title and commencement—(1) This order may be cited as the Agricultural Workers (Orchards and Vineyards) Order 1975.

(2) This order shall come into force on the day after the date of its notification in the *Gazette*, and shall continue in force for twelve months and thereafter until a further order is made in substitution therefor.

2. Application—(1) This order shall apply to agricultural workers employed in vineyards, orchards, and fruit-packing co-operatives on orchards, in New Zealand.

(2) The conditions of employment set out in the Schedule to this order shall apply in respect of those workers.

3. Revocations—The Agricultural Workers (Orchards and Vineyards) Order 1971* and the Agricultural Workers (Orchards and Vineyards) Order 1971, Amendment No. 1, are hereby revoked.

*S.R. 1971/159
Amendment No. 1: S.R. 1972/140

Clause 2 (2)

SCHEDULE

INTERPRETATION

1. (1) In this order, unless the context otherwise requires,—
 - “Casual worker” means a worker who is not permanently employed;
 - “Permanent worker” means a worker other than a casual worker.
- (2) A worker shall be deemed to be permanently employed—
 - (a) After 4 months’ continuous employment with the same employer (whether that period or any part thereof is before or after the commencement of this clause) unless at his or her own request he or she remains a casual worker;
 - (b) In any other case if the employer and worker so agree.

HOURS OF WORK

2. (1) The ordinary hours of work shall be worked on 6 days of the week commencing on Monday and ending at noon on Saturday.
- (2) From 16 May to 15 October, both days included, the ordinary hours of work shall not exceed 80 per fortnight or 44 in any 1 week or 8 on any 1 day.
- (3) From 16 October to 15 May, both days included, the ordinary hours of work shall not exceed 88 per fortnight or 48 in any 1 week or 10 on any 1 day.
- (4) The periods stated in subclauses (2) and (3) of this clause may be varied to suit particular fruitgrowers by arrangement with the New Zealand Workers’ Industrial Union of Workers and the New Zealand Fruit-growers’ Industrial Union of Employers.

WAGES OF PERMANENT WORKERS

3. The minimum rates of wages for permanent workers shall be as follows:

	Weekly Wage \$
Managers	72.50
Adult male workers of 20 years or over	63.00
Adult female workers of 20 years or over	53.55
Junior Workers:	
Under 16 years	22.72
16 years and under 17 years	27.70
17 years and under 18 years	32.48
18 years and under 19 years	37.22
19 years and under 20 years	45.32

WAGES OF CASUAL WORKERS

4. The minimum rates of wages for casual workers shall be as follows:

	Per Hour \$
Adult male workers	1.50
Adult female workers	1.28
Male Junior Workers:	
Under 16 years	0.70
16 years and under 17 years	0.88
17 years and under 18 years	1.08
18 years and under 19 years	1.25
19 years and under 20 years	1.37

SCHEDULE—*continued*

Female Junior Workers:	Per Hour \$
Under 16 years	0.65
16 years and under 17 years	0.83
17 years and under 18 years	0.96
18 years and under 19 years	1.06
19 years and under 20 years	1.16

COST OF LIVING ORDER: 15 JANUARY 1975

5. Notwithstanding the provisions of clauses 3 and 4 of this Schedule, the remuneration in each week of the workers affected, calculated at the hourly rates therein set out, shall, as from the commencement of this order, be increased by 4 per cent:

Provided that there shall be excluded from the scope of the increase provided for in this clause such portion of the remuneration in each week as exceeds the amount of \$75.

WET TIME

6. In cases where a casual worker reports for work in the morning and no work is available because of wet weather, such worker shall be guaranteed 2 hours' work for each day or paid 2 hours' wages in lieu thereof.

OVERTIME AND PENAL RATES

Overtime

7. (1) All time worked outside or in excess of the hours prescribed in clause 2 of this Schedule shall be overtime, and shall be paid for at the rate of time and a half for the first 3 hours and double time thereafter.

(2) All overtime shall be calculated and paid for on a daily basis.

Work on Saturday

(3) Notwithstanding the provisions of clause 2 of this Schedule, and by agreement between the employer and worker, it shall be permissible to work all day on a Saturday at ordinary rates or by extended hours on any weekday at ordinary rates to provide time in substitution for any weekday which may be allowed off for shopping or any other agreed purpose.

Sunday Work for Permanent Workers

(4) For every Sunday on which a permanent worker is called upon to work there shall be added to the annual holidays referred to in subclause (4) of clause 12 of this Schedule the following period:

- (a) If the worker has done no work on the preceding Saturday, 1 day:
- (b) In other cases, 2 days.

Nothing in this subclause shall affect the liability of the employer to pay or the right of the worker to receive overtime rate for time worked on a Sunday in any fortnight in which the hours worked exceed those specified in clause 2 of this Schedule. This subclause shall not apply to any case to which the provisions of subclause (5) of this clause apply.

SCHEDULE—*continued**Stone Fruit*

(5) In necessitous cases where stone fruit is being picked, Sunday work may be undertaken. Payment for any such work shall be made at time and a half of the worker's appropriate rate as specified in this Schedule.

BIRD SCARING

8. Notwithstanding any other provision in this order, workers engaged on bird scaring shall be paid time and a half rates for all hours worked outside the hours specified in clause 2.

SPECIAL PAYMENTS

9. (1) If in charge of 4 or more workers, the foreman or leading hand shall be paid 8c per hour in excess of the ordinary rate. Further, any other worker, if in charge of 4 or more workers and taking control of orchard work or of grading and packing operations, shall also be paid 8c per hour in addition to his or her ordinary rate.

(2) Workers who have been ordered back overnight and upon attending find no work available shall be paid at least 2 hours' pay as a minimum payment.

PIECEWORK AND CONTRACT WORK

10. Subject to the terms and conditions of this order, where it is mutually agreed between the employer and the workers concerned, work may be performed on piecework or by co-operative contract:

Provided that any such work shall be performed at such rates of remuneration as will enable a worker of average ability to earn not less than 10 percent above the appropriate rates set out in this order.

REMOTE WORK

11. Notwithstanding the provisions relating to employment of casual workers contained in clauses 4, 6, and 8 of this Schedule where, owing to remoteness of the place of employment from the source of labour, those terms would be impracticable, the contract of employment shall be made at the source of supply of labour, the contract shall be for not less than 4 weeks, and the terms of remuneration shall be agreed upon between the employer and the local secretary of the New Zealand Workers' Industrial Union of Workers. Failing such agreement, the terms of remuneration shall be such as shall be approved by a committee at Wellington consisting of 2 representatives from the workers' union and 2 representatives from the employers.

UNDER-RATE WORKERS

12. Sections 24 and 25 of the Agricultural Workers Act 1962 apply to employment under this order. The said sections read as follows:

"24. Permit to work for less than minimum wage—(1) If any agricultural worker satisfies an Inspector that he is incapable of earning wages at the appropriate minimum rate for the time being prescribed under

SCHEDULE—*continued*

any Order in Council made pursuant to Part III of this Act, the Inspector may from time to time grant him a permit to accept wages at such lower rate as may be specified in the permit. A permit granted to any agricultural worker under this section shall continue in force for the period specified in the permit; and while it continues in force the rate of wages prescribed in the permit shall be deemed to be the minimum rate of wages prescribed under Part III of this Act in respect of that worker.

“(2) Notwithstanding that the rate of wages specified in a permit under this section may be less than the minimum rate for the time being prescribed in the Minimum Wage Act 1945, or any Order in Council made pursuant thereto, such permit shall have full effect as if issued under that Act.

“25. **Permit for female to work for less than minimum wage**—A permit may be granted under section 24 of this Act to any woman or girl employed as an agricultural worker if the Inspector is satisfied having regard to the conditions of her employment, the nature of work performed by her, the time occupied in the performance of her work, and any other relevant circumstances, that she is not reasonably entitled to wages at the prescribed minimum rate. Where a permit is granted for the purposes of this section the Inspector may also reduce to such amount as he thinks fit the amount (if any) payable to the woman or girl in respect of her board and lodging pursuant to any Order in Council made under Part III of this Act.”

HOLIDAYS

13. (1) The following holidays shall be allowed to all permanent workers without deduction from wages: Christmas Day, Boxing Day, New Year's Day, New Zealand Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, picnic day (which shall be held during the month of October or November) or 1 day instead thereof, and Anniversary Day or 1 day instead thereof. Other days may be substituted instead of Boxing Day and New Year's Day by arrangement between the worker and the employer. Any worker employed on any such holiday shall in addition to the ordinary rate of wages, be paid at the ordinary rate for all time worked on the holiday.

(2) Where a casual worker has been employed at any time during the fortnight ending on the day on which any of the holidays mentioned in subclause (1) of this clause occurs, he shall be entitled to that holiday on pay calculated at the rate of one-tenth of the amount paid to him for ordinary time worked by him during that fortnight.

(3) In the event of a holiday, other than Anzac Day or New Zealand Day, falling on a Saturday or a Sunday, the holiday shall be observed on the following Monday, and in the event of another holiday falling on that Monday, the other holiday shall be observed on the following Tuesday.

(4) *Annual Holidays*: All workers shall be allowed holidays in accordance with the Annual Holidays Act 1944.

SCHEDULE—*continued*

WAGES AND HOLIDAY BOOK

14. (1) On every orchard or vineyard on which 1 or more agricultural workers are employed the employer shall at all times keep a record in English (called the wages and holiday book) showing in the case of each agricultural worker employed by him—

- (a) The name of the worker:
- (b) His age, if he is under 20 years of age:
- (c) The starting and finishing times on each day to be entered each day:
- (d) The days on which he has actually been employed:
- (e) The wages paid on each pay day, the date of payment, and the period to which payment relates:
- (f) The days on which he is allowed any holiday:
- (g) The wages paid for each holiday and the date of payment:

Provided that in respect of any worker employed upon piecework it shall be sufficient if the wages and holiday book shows the following particulars—

- (a) The name of the worker:
- (b) The rate agreed for piecework:
- (c) The days upon which or the period during which the worker was employed:
- (d) The wages paid and the date of payment:
- (e) The wages paid for each holiday and the date of payment.

(2) The wages and holiday book in use for the time being, and any such book used within the preceding 2 years, shall at all times be open to inspection by an Inspector.

PAYMENT OF WAGES

15. (1) Wages shall be paid weekly unless otherwise agreed between the employer and the worker.

(2) All payments of wages shall be made in cash, unless otherwise arranged between the employer and the worker.

(3) Any employer shall be entitled to make a rateable deduction from any weekly wages mentioned in clause 3 of this Schedule for any time lost by a worker through sickness, accident, or his own default, or by his written request.

PENALTY FOR BREACH

16. Sections 20 and 21 of the Agricultural Workers Act 1962 apply to employment under this order. The said sections read in part as follows:

“20. **Breaches of orders**—(1) If any employer makes default in the full payment of any wages or other remuneration payable by him pursuant to any order made under this Part of this Act, or if any employer or worker of a class affected thereby fails to observe any provision of or any requirement imposed by any such order he commits a breach of the order and shall be liable to a penalty not exceeding \$100 in respect of every such breach.

“(2) Any penalty under this section may be recovered at the suit of an Inspector or of any organisation of workers of a class affected by the order or of any organisation of their employers in the same manner as a penalty for breach of an award may be recovered under the Industrial Relations Act 1973* . . .

*Reference to the Industrial Relations Act 1973 was substituted for reference to the Industrial Conciliation and Arbitration Act 1954 by section 234 (2) (a) of the Industrial Relations Act 1973.

SCHEDULE—*continued*

“21. **Recovery of arrears of wages**—Without affecting any other remedies for the recovery of money payable to any agricultural worker, proceedings for the recovery of wages or other money payable by an employer to any agricultural worker pursuant to an order made under this Part of this Act may be taken by an Inspector in the same manner as proceedings under the Industrial Relations Act 1973* for the recovery of money due to a worker by his employer under an award or agreement, and all the provisions of that Act relating to the recovery of money due to workers under awards or agreements shall, with the necessary modifications, apply accordingly.

TERMINATION OF EMPLOYMENT

17. Any worker leaving or being dismissed shall at the termination of the employment receive from the employer the wages due and holiday pay. In the case of casual workers, 1 hour's notice of the termination of employment shall be given by the employer or the worker as the case may be. In the case of permanent workers, 1 week's notice of the termination of employment shall be given by the employer or the worker as the case may be. Where the required notice is not given, 1 hour's wages or 1 week's wages shall be paid or forfeited as the case may be. Nothing in this clause shall prevent the summary termination of employment for misconduct.

GENERAL CONDITIONS

18. (1) *Tools*—All tools shall be provided by the employer.

(2) *Protective Clothing*—All workers engaged in spraying and mixing sprays shall be provided with protective clothing, gumboots, and, where necessary, respirators. Where the nature of the work requires protective gloves to be worn they shall be made available by the employer.

(3) *Tea Break*—An interval of 10 minutes shall be allowed all workers each morning and each afternoon. The employer shall provide brewed tea for all tea breaks and lunches.

(4) *Wrist Straps*—Wrist straps or bandages shall be made available to all packers if and when required.

(5) *Picking Bags*—When requested by a worker, wet picking bags shall be replaced with dry ones.

(6) *Ladders*—Ladders must be maintained to provide maximum safety. No female worker shall be required to handle ladders more than 14 kg in weight.

(7) *Other Employment*—Unless he voluntarily agrees to do so, no worker shall be required, outside his normal hours of work, to work for any other employer.

(8) *Transport*—Trucks used for transporting workers to work shall be equipped with seats and canopies. Workers shall not be conveyed in loaded trucks. Where a worker is requested by an employer to use his own vehicle on the business of the employer he shall be paid mileage allowance in accordance with the State Services Scale.

*Reference to the Industrial Relations Act 1973 was substituted for reference to the Industrial Conciliation and Arbitration Act 1954 by section 234 (2) (a) of the Industrial Relations Act 1973.

SCHEDULE—*continued*

(9) *Meal Hours*—No worker shall be employed more than 4½ hours without an interval of at least half an hour for a meal.

(10) *Proportion of Youths*—In the case of permanent employees, the proportion of youths to be employed shall not exceed 2 to each adult male worker including the working owner. This proportion may be exceeded if male adult workers are not available.

(11) *Rent Disputes Committee*—Should a dispute arise with reference to the amount payable by any worker for the rent of a house owned or leased by the orchardist, the matter shall be referred to both unions, who shall immediately appoint a representative from each union, with an independent chairman, who shall be appointed by agreement between the unions, to adjudicate upon the matter, and the finding of this body shall be binding and final.

(12) *Service Payment*—After 1 year's continuous service as an adult worker with the same employer a worker shall be paid a service allowance of 3 cents per hour. After 3 years' continuous service as an adult worker with the same employer such worker shall be paid a further 3 cents per hour making 6 cents per hour in total.

(13) *Chemical Sprays*—An allowance of 10 cents per hour shall be paid to a worker while engaged in mixing and applying chemical sprays.

(14) *Septic Tanks, etc.*—A worker who is required to clean out any septic tank or chemical toilet shall be paid an allowance of \$1.00 for every day or part of a day he is so engaged. Time shall be allowed thereafter for him to shower or wash.

(15) *First Aid Kits*—First aid kits of not less than the minimum standard required under section 28 of the Agricultural Workers Act 1962 shall be made available.

ACCOMMODATION

19. (1) Where required, accommodation shall be provided in accordance with Part II of the Agricultural Workers Act 1962 and the Agricultural Workers Accommodation Regulations 1963*.

(2) Where members of both sexes are employed, not being members of the same family, the sleeping accommodation for each sex shall be separate so as to ensure privacy.

(3) Where accommodation is not provided, suitable lavatories shall be provided by the employer. Where members of both sexes are employed separate provision shall be made for each sex so as to ensure privacy.

(4) When board and lodging is provided for casual workers a deduction may be made from wages, but not exceeding \$2.20 a week in the case of youths and girls 17 years of age and under.

(5) Where accommodation is provided a deduction of not more than \$1.50 per week may be made from the wages.

UNION MEMBERSHIP

20. (1) Except as provided in subclause (7) of this clause, every worker to whom this order applies shall, if he is not already a member of the New Zealand Workers' Industrial Union of Workers, become a member of such union.

SCHEDULE—*continued*

(2) Subject to subclause (1) of this clause every worker to whom this order applies shall remain a member of the union so long as he continues to be such a worker.

(3) Every worker obliged under subclause (1) of this clause to become a member of the 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 the union in accordance with subclause (2) of this clause commits a breach of this order.

(4) Every employer commits a breach of this order if he continues to employ any worker to whom this order applies 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.

(NOTE—Attention is drawn to section 104 of the Industrial Relations Act 1973 which gives to workers the right to join the union.)

(5) The union shall provide each employer who employs any worker to whom this order applies with a supply of membership enrolment forms each of which shall have attached thereto an authority (to be signed by the worker to whom it relates) authorising the employer to deduct from the wages of the worker, as the wages become payable, the amount of the union subscription then due and owing by the worker, or, subject to the provisions of subclause (6) of this clause, the appropriate sum in respect of the seasonal subscription.

(6) For each week or part thereof being 3 days or more, the subscription shall be 30c for each adult male worker or each male worker under the age of 20 years who for the time being is in receipt of not less than the minimum rate of wages prescribed by this order for workers of the age of 20 years and over, and 20c for every other worker, including a weekend worker. A weekend worker, for the purposes of this subclause, shall be a worker who is employed by an employer on Saturday and Sunday only. The seasonal subscription shall be \$15.60 for each adult male worker or each male worker under the age of 20 years who for the time being is in receipt of not less than the minimum rate of wages prescribed by this order for workers of the age of 20 years and over, and \$10.40 for every other worker. As an alternative to having his seasonal subscription deducted from his wages, a worker may pay the same in cash directly to the union or to any duly authorised representative of the union.

(7) The following classes of workers shall not be obliged to become members of the union:

- (a) Workers under 16 years of age;
- (b) Members of the employer's own family:

Provided that this class shall not include any contractor, or members of the contractor's own family:

- (c) Workers to whom certificates of exemption from membership of a union have been issued under section 106 of the Industrial Relations Act 1973 and for the time being in force.

(8) Employers may, if they so desire, remit quarterly to the New Zealand Workers' Industrial Union of Workers the union fees deducted

SCHEDULE—*continued*

by them from the wages of the workers or otherwise held on behalf of the union; alternatively, the said union shall notify employers of the approximate week during which a union representative will call upon them to uplift money held on behalf of the union, but such calls shall not be made at less than 4-monthly intervals.

(9) Employers shall give the secretary or other authorised officer of the union reasonable facilities to visit workers to whom this order applies:

Provided that such visits shall not be made in a manner that will interfere unduly with the employer's work.

DISPLAY OF ORDER

21. Each employer is required to display a copy of this order in the shed or other place accessible to the workers.

NOTIFICATION

22. Every employer shall, after being requested to do so by an officer or authorised representative of the New Zealand Workers' Industrial Union of Workers, supply the names and addresses of the workers who are employed by him and to whom this order applies.

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the order, but is intended to indicate its general effect.

This order replaces the Agricultural Workers (Orchards and Vineyards) Order 1971, as amended by the Agricultural Workers (Orchards and Vineyards) Order 1971, Amendment No. 1, and has been agreed by the New Zealand Fruitgrowers Industrial Union of Employers and the New Zealand Workers Union, and approved by the Industrial Commission.

Its provisions are broadly the same as those of the earlier order, with new wage rates substituted for those previously payable, these rates being further increased by the amounts specified in the wage order operative from 15 January 1975. In addition, sanction is given for the payment at ordinary rates of workers making up time off by working outside normal hours; New Zealand Day is made a statutory holiday; provision is made for holiday pay in respect of statutory holidays; requirements for notice of termination of employment are set out; new allowances become payable for long service, the use of chemical sprays, and cleaning septic tanks; and union contributions are increased.

Remuneration for females in this order is at the rates required under the second step towards equal pay pursuant to the Equal Pay Act 1972.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 June 1975.

This order is administered in the Department of Labour.