

Serial Number 1940/24.



**THE AGRICULTURAL WORKERS EXTENSION ORDER 1940.**

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 21st day of  
February, 1940.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to section 20 of the Agricultural Workers Act, 1936, and after submission by the Minister of Labour to the organization of the workers of the class affected and to the organization of their employers of the proposal to extend Part III of the said Act as hereafter appears, and after submission to and approval in all material particulars by the said organizations of the provisions herein contained, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby order as follows :—

**I.** This Order may be cited as the Agricultural Workers Extension Order 1940.

**II.** The provisions of Part III of the Agricultural Workers Act, 1936, are hereby extended to apply with the necessary modifications and with the further modifications set out in the Schedule hereto with respect to the following class of agricultural workers—that is to say, agricultural workers employed in orchards.

**III.** (1) Except as herein provided, this Order shall come into force on the day following notification in the *Gazette* of the making thereof,\* and shall continue in force until the 30th day of November, 1940, and thereafter until a further Order is made pursuant to section 20 of the said Act.

(2) The provisions of this Order relating to wages shall be deemed to have come into force on the 1st day of February, 1940.

**IV.** The Agricultural Workers Extension Order 1938† is revoked as from the coming into force of this Order.

\* See end note.

† Statutory Regulations 1938, Serial number 1938/22, page 103.

## SCHEDULE.

## HOURS OF WORK.

1. (a) The following hours may, without payment at overtime rate, be worked on six days of the week, Monday to Saturday inclusive, but Sunday work will be permitted under the conditions hereinafter laid down :—

From the commencement of the second week in June, including July and August, a maximum of eighty hours per fortnight.  
September, October, November, and December, a maximum of eighty-eight hours per fortnight.

January to the end of the first week in June, ninety-two hours per fortnight.

In this Schedule "fortnight" means a period ending at the end of the calendar week next after the week in which the employment commenced or ending at the end of any alternate week thereafter.

(b) For the purpose of the workers' half-holiday all work shall cease at noon on Saturdays except in necessitous cases.

(c) The periods stated in paragraph (a) may be varied to suit particular individual fruitgrowers by arrangement with the New Zealand Workers' Industrial Union of Workers and the New Zealand Fruitgrowers' Industrial Union of Employers.

(d) *Sunday Work for Permanent Workers.*—For every Sunday on which a permanent worker is called upon to work there shall be added to the holidays referred to in subclause (b) of clause 7 of this Schedule the following period :—

- (i) If the worker has done no work on the preceding Saturday, one day :
- (ii) In other cases, two days.

Provided that 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 hereinbefore specified : Provided also that this subclause shall not apply to any case to which the provisions of subclause (e) of this clause apply.

(e) *Stone-fruit.*—In necessitous cases when stone-fruit is being picked, Sunday work may be undertaken without any payment provided a whole holiday on the preceding Friday or Saturday is granted on full pay and provided also the total hours permitted to be worked in any fortnight without payment at overtime rate are not exceeded without payment of overtime.

## WAGES OF PERSONS PERMANENTLY EMPLOYED.

2. (a) The minimum rate of weekly wages for male workers permanently employed shall be as follows :—

	Twenty-one Years and over.	Amount to be deducted if Board and Lodging provided.	
	£ s. d.	£ s. d.	
Managers .. .. .	.. 4 4 0	0 17 6	
Other adult male workers..	.. 4 0 0	0 17 6	

  

Youths permanently employed :—	£ s. d.	Less Board and Lodging.	Net.
	£ s. d.	£ s. d.	£ s. d.
Over 15 to 16 years .. .. .	.. 1 0 0	0 7 6	0 12 6
Over 16 to 17 years .. .. .	.. 1 5 0	0 7 6	0 17 6
Over 17 to 18 years .. .. .	.. 1 10 0	0 10 0	1 0 0
Over 18 to 19 years .. .. .	.. 2 0 0	0 10 0	1 10 0
Over 19 to 20 years .. .. .	.. 2 7 6	0 12 6	1 15 0
Over 20 to 21 years .. .. .	.. 2 15 0	0 12 6	2 2 6

(b) The foreman or leading hand doing grading or packing work shall be paid 2d. per hour in excess of the ordinary rate.

(c) After twenty-one years the wages shall be those of an adult male worker, but if board and lodging provided, less 17s. 6d.

(d) The proportion of youths to be employed shall not exceed two to each adult male worker including the owner if he is employed as a working-orchardist. This proportion may be exceeded if male adult workers are not available.

(e) Wages shall be paid fortnightly unless otherwise agreed between the employer, the worker, and the accredited representative of the union.

(f) Unless otherwise arranged between the employer and the worker, all payments of wages shall be made in cash.

(g) After five months' continuous employment with the same employer a worker shall be deemed to be permanently employed unless at his own request he remains on the casual staff.

#### UNDER-RATE WORKERS.

3. Subsection (6) of section 14 of the Agricultural Workers Act, 1936, and subsection (2) of section 5 of the Statutes Amendment Act, 1936, shall extend and apply to workers employed or intending to be employed in orchards so as to read (in their application to such workers) as follows :—

“(6) 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 this section, 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 subsection shall continue in force for the period specified in that behalf in the permit ; and while it continues in force the rate of wages specified in the permit shall be deemed to be the minimum rate of wages prescribed under this section in respect of that worker.”

“(2) A permit may be granted under the said subsection six to any woman or girl employed as an agricultural worker on any orchard if the Inspector is satisfied, having regard to the conditions of her employment, the nature of the 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 subsection 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 subsection four of the said section fourteen.”

#### PENALTY FOR BREACH.

4. Sections 18 and 19 of the Agricultural Workers Act, 1936, shall extend and apply to workers employed or intending to be employed in orchards. The said sections read as follows :—

“18. If any employer makes default in the full payment of any wages payable by him under this part of this Act, he shall be liable to a fine of five shillings for every day during which the default continues.

“19. (1) Without affecting any other civil remedies for the recovery of wages payable under this Part of this Act to any agricultural worker, civil proceedings for the recovery of such wages may be taken by any Inspector, in the name and on behalf of the person entitled to payment, in any case where the Inspector is satisfied that default in payment has been made.

“(2) No proceedings shall be taken by an Inspector under this section in any case where he has reason to believe that any default by the employer in the payment of wages was due to misrepresentations made by the agricultural worker to the employer.”

#### OVERTIME.

5. All work done in excess of the fortnightly hours by persons permanently employed shall be paid for at the rate of time and a half, except in the case of frost-fighting, when ordinary rates shall be paid.

#### TIME AND WAGES BOOK.

6. Section 17 of the Agricultural Workers Act, 1936, shall apply to every orchard in which one or more workers are employed so as to read (in its application to agricultural workers employed in orchards) as follows :—

“(1) On every orchard on which one or more agricultural workers are employed the employer shall at all times keep in the prescribed form, or in such other form as may be approved by an Inspector, a record (herein referred to as the wages and holiday book) showing, in the case of each worker,—

“(a) The name of the worker, together with his age if under twenty-one years of age :

“(b) The days on which he has actually been employed :

“(c) The wages paid on each pay-day, the date of payment, and the period to which the payment relates :

“(d) The days on which he is allowed any holiday :

“(e) The wages paid for each holiday, and the date of payment :

“(f) Such other particulars as may be prescribed.

“(2) The entry of the particulars hereinbefore referred to shall be signed by the agricultural worker at the time of the payment of his wages, and his signature shall operate as a receipt for the payment.

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

“(4) Every agricultural worker who fails to sign the record as provided in this section, or who wilfully signs an incorrect record, shall be liable to a fine of five pounds.”

#### HOLIDAYS.

7. (a) The following holidays shall be allowed to all employees other than casual workers without deduction from wages: Christmas Day, Boxing Day, New Year's Day, Good Friday, Anzac Day, day observed as the Sovereign's Birthday, Labour Day, Picnic Day (which shall be held during the months of October and November) or one day in lieu thereof. Other days may be substituted in lieu of Boxing Day and New Year's Day by arrangement between the worker and the employer. Any worker employed on any such holidays shall, in addition to his ordinary rate of wages, be paid at the ordinary rate for all time worked on such holiday.

(b) After twelve months' continuous employment with the same employer each employee shall be entitled to ten working-days' holiday on full pay, to be taken at a time suitable to the convenience of the employer. Any employee, other than a casual worker, who has had three months' continuous employment and whose employment is terminated either by himself or by his employer for any reason other than misconduct shall be paid a proportionate sum in lieu of the holidays prescribed.

#### ACCOMMODATION.

8. Where required, accommodation shall be provided as prescribed in Part II of the Agricultural Workers Act, 1936, comprising sections 8 to 12 (inclusive) of the said Act, which read as follows:—

“8. It shall be the duty of every employer to provide sufficient and suitable accommodation, in accordance with this Act and any regulations made thereunder, for all agricultural workers employed by him.

“9. For the purposes of the last preceding section no accommodation shall be deemed to be sufficient and suitable unless the following conditions are complied with, that is to say:—

“(a) Where two or more persons are to be accommodated, the accommodation provided as sleeping-quarters shall be separate from the dining-quarters:

“(b) There shall be a sufficient supply of furniture and necessary utensils, and sufficient provision shall be made for a supply of drinking-water and of washing-water, and for lighting, heating, ventilation, and sanitation:

“(c) The sleeping-quarters shall contain not less than five hundred cubic feet of air-space for every person to be accommodated therein:

“(d) Suitable provision shall be made for storing meat and other perishable provisions:

“(e) Suitable provision shall be made for the drying of clothes:

“(f) Suitable first-aid appliances shall be provided.

“10. (1) Any Inspector may, by notice in writing addressed to the employer, dispense with or modify any of the foregoing requirements of this Part of this Act—

“(a) With respect to any accommodation provided before the commencement of this Act, if such accommodation conforms approximately to the standard prescribed by this Act or the regulations thereunder:

“(b) In any case where he is satisfied that owing to special circumstances it is or has been impracticable to provide the accommodation required by this Part of this Act to be provided.

“(2) Any notice under this section may be at any time in like manner revoked, or may be at any time revoked by the Minister of Labour.

“11. (1) If in any case no provision is made for the accommodation of agricultural workers, or if the provision made is deemed by an Inspector to be inadequate or not in accordance with the requirements of this Act, the Inspector may give notice in writing to the employer to provide accommodation in accordance with the said requirements within a reasonable time to be specified in the notice.

“(2) Any such notice may be served on the employer personally, or by leaving it at his usual or last known place of residence or business, or by posting it by registered letter to that address.

“(3) If the employer considers any such notice to be unreasonable or impracticable, he may, within fourteen days after service thereof, file in the office of the Magistrate's Court nearest to the place where the accommodation is required to be provided, or, with the consent of the Inspector, in the office of any other Magistrate's Court, a notice of appeal setting out with reasonable particularity the grounds of the appeal:

“Provided that if the Inspector, acting on the advice of a Medical Officer of Health under the Health Act, 1920, states in his notice that the requirements are urgently needed for the protection of the health of any agricultural worker there shall be no right of appeal.

“(4) On the filing of any such notice of appeal the Magistrate shall fix a time for the hearing of the appeal, and the Clerk of the Court shall notify the appellant and the Inspector of the time so fixed.

“(5) On the hearing of the appeal the Magistrate may by order confirm, modify, or cancel the notice as he thinks fit, and may by such order award the costs of the hearing or any part of such costs to either party to the appeal, and every such order shall be final and binding on both parties.

“(6) If the employer within the time specified in the notice, or, in the case of an appeal, within the time specified in the order of the Magistrate, fails to comply with any such notice or order he shall be liable to a fine of twenty-five pounds and to a further fine of two pounds for every day during which the failure continues.

“12. (1) The foregoing provisions of this Part of this Act shall not apply in the case of agricultural workers who live within reasonable distance of the land on which they are employed, and who, in the opinion of the Inspector, can conveniently sleep at their own homes or otherwise provide their own sleeping-accommodation.

“(2) Where an agricultural worker resides in a house that is owned or leased by the employer, other than the private residence of the employer, and whether or not the agricultural worker pays rent for the house or any sum is deducted from his wages by way of rent, the employer shall provide for the use of the worker such further accommodation as may be prescribed by regulations made in that behalf.

“(3) Any such regulations may distinguish between the accommodation to be provided in cases where a house is occupied exclusively by a married man and his family and the accommodation to be provided in the case of other agricultural workers.”

#### RENT DISPUTES COMMITTEE.

9. 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.

#### MEAL-HOURS.

10. No worker shall be employed more than four and one-half hours without an interval of at least three-quarters of an hour for a meal.

#### PREFERENCE.

11. Every worker employed within the scope of these provisions for a period exceeding two weeks in the industry shall immediately become a financial member of the New Zealand Workers' Industrial Union of Workers. It shall be the duty of the employer or his agent, within seven days of the worker's paying to him the amount of the subscription hereinafter mentioned or giving him a written authority to deduct the amount from wages due to the worker, to remit to the general secretary of the New Zealand Workers' Industrial Union of Workers, P.O. Box 55, Te Aro, Wellington, the sum of one pound five shillings (£1 5s.) for each adult male worker and ten shillings (10s.) for each other worker.

## CASUAL WORKERS.

12. (a) All workers employed on an hourly or daily basis shall for the purpose of this Order be termed casual workers.

(b) Rates of wages :—				Per Hour.	
				s.	d.
Adult male workers	..	..	..	..	1 10
Adult female workers	..	..	..	..	1 6
Youths and girls—					
Up to eighteen years	..	..	..	..	1 0
Eighteen years and over	..	..	..	..	1 3

(c) The foreman or leading hand doing grading or packing work shall be paid 2d. per hour in excess of the ordinary rate.

(d) Workers having been ordered back overnight and upon attending find no work available shall be paid a minimum payment of two hours, except in circumstances caused by rain, mist, or dew.

(e) Casual workers employed on Sunday shall be paid at the rate of time and a half except as provided in subclause (f) hereof.

(f) In necessitous cases when stone-fruit is being picked, Sunday work may be undertaken without any payment provided a whole holiday on the preceding Friday or Saturday is granted on full pay and provided also the total hours permitted to be worked in any fortnight without payment at overtime rate are not exceeded without payment of overtime.

(g) All work done in excess of the hours as provided in clause 1 shall be paid for at the rate of time and a half.

(h) Where board and lodging is provided for casuals, deduction may be made from the wages on the same basis as prescribed in this Order for permanent workers, but not exceeding 10s. per week in the case of youths and girls.

(j) One day's holiday on full pay for each six weeks of continuous service with the same employer shall be granted to casual workers.

(k) After five months' continuous employment with the same employer a worker shall be deemed to be a permanent employee, unless at his own request he remains on the casual staff.

## SCOPE OF ORDER.

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

C. A. JEFFERY,  
Clerk of the Executive Council.

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Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 22nd day of February, 1940.

These regulations are administered in the Labour Department.