

1958/16



**THE AGRICULTURAL WORKERS (ORCHARDISTS)
EXTENSION ORDER 1958**

COBHAM, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 5th day of February 1958

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Agricultural Workers Act 1936, and after submission by the Minister of Labour to the organisation of the workers of the class affected and to the organisation of their employers of the proposal to extend Part III of the said Act as hereinafter appears, and after approval in all material particulars by the said organisations of the provisions herein contained, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

ORDER

1. This order may be cited as the Agricultural Workers (Orchardists) Extension Order 1958.

2. 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.

3. (1) Except as provided in subclause (2) of this clause, this order shall come into force on the day after the date of its notification in the *Gazette*.

(2) The provisions of this order relating to rates of wages shall be deemed to have come into force on the 1st day of January 1958.

4. The Agricultural Workers (Orchardists) Extension Order 1955,* and the Agricultural Workers (Orchardists) Extension Order 1955, Amendment No. 1, and the Agricultural Workers (Orchardists) Extension Order 1955, Amendment No. 2, are hereby revoked.

*S.R. 1955/39
Amendment No. 1: S.R. 1956/28
Amendment No. 2: S.R. 1957/3

SCHEDULE

HOURS OF WORK

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

From 16 May to 15 October inclusive, for a maximum of eighty hours per fortnight:

Provided that the maximum hours to be worked at ordinary rates in any one day shall not exceed eight and in any one week shall not exceed forty-four.

From 16 October to 15 May inclusive, for a maximum of eighty-eight hours per fortnight:

Provided that the maximum hours to be worked at ordinary rates in any one day shall not exceed ten and in any one week shall not exceed forty-eight.

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

(3) The periods stated in subclause (1) 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 Fruitgrowers' Industrial Union of Employers.

(4) **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 (2) of clause 8 of this Schedule the following period:

(a) If the worker has done no work on the preceding Saturday, one day:

(b) 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 specified in this Schedule:

Provided also that this subclause shall not apply to any case to which the provisions of subclause (5) of this clause apply.

(5) **Stone fruit**—Notwithstanding the provisions of clause 6 hereof, 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 order.

SCHEDULE—*continued*

WAGES OF PERSONS PERMANENTLY EMPLOYED

2. (1) The minimum rate of wages for workers permanently employed shall be as follows:

	Weekly Wage		
	£	s.	d.
Managers	12	16	6
Other male workers of twenty-one years or over	11	2	0
Female workers	7	16	6
Youths—			
Under sixteen years	3	14	0
Sixteen years and under seventeen years	4	1	6
Seventeen years and under eighteen years	5	0	6
Eighteen years and under nineteen years	6	1	6
Nineteen years and under twenty years	7	0	6
Twenty years and under twenty-one years	8	11	6

(2) If in charge of four or more workers, the foreman or leading hand doing grading or packing work shall be paid 5d. per hour in excess of the ordinary rate. Further, any other worker, if in charge of four or more workers and taking control of orchard work or of grading and packing operations, shall be also paid 5d. per hour in addition to his or her ordinary rate.

(3) 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.

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

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

(6) Every worker shall be deemed to be permanently employed—

(a) After four 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 on the casual staff:

(b) In any other case if the parties so agree.

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

PIECEWORK AND CONTRACT WORK

3. 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 cooperative 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 ten per cent above the appropriate rates set out in this order.

SCHEDULE—*continued*

UNDER RATE WORKERS

4. 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 (6) to any woman or girl employed as an agricultural worker in 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 (4) of the said section 14.

PENALTY FOR BREACH

5. 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

6. All time worked by permanent employees outside or in excess of the hours prescribed in clause 1 of this Schedule and subject to the provisions thereof shall be overtime, and shall be paid for at the rate of time and a half for the first three hours and double time thereafter. All overtime shall be calculated and paid for on a daily basis. Any work done on Saturday after noon shall be paid for at overtime rates, subject to clause 1 (2), except in the case of frostfighting, when ordinary rates shall be paid.

TIME AND WAGES BOOK

7. 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:

SCHEDULE—*continued*

17. (1) On every orchard in 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 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 wilfully signs an incorrect record, shall be liable to a fine of £5.

HOLIDAYS

8. (1) 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, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, picnic day (which shall be held during the months of October and November) or one day instead thereof, and Anniversary Day or one 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) Holidays shall be allowed in accordance with the Annual Holidays Act 1944.

(3) All casual workers coming within the application and scope of this Schedule who have been employed by the same employer for a period of not less than six working days during the fortnight immediately preceding the day on which any of the holidays hereinafter mentioned occurs shall be entitled to that holiday on pay—namely, Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Anniversary Day, or one day instead thereof.

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

(5) In the event of a holiday, other than Anzac 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.

SCHEDULE—*continued*

ACCOMMODATION

9. (1) Where required, accommodation shall be provided as prescribed in Part II of the Agricultural Workers Act 1936 comprising sections 8 to 12 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 1956, 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 Registrar 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.

SCHEDULE—*continued*

(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.

(2) Where accommodation is not provided, suitable lavatories shall be provided by the employer.

(3) In this clause the term "utensils" shall be deemed to include crockery, cutlery, and cooking utensils.

ACCOMMODATION FOR FEMALE WORKERS

10. Where females are employed, separate accommodation similar to that prescribed by clause 9 of this Schedule shall be provided, and in cases where accommodation is not provided suitable lavatories shall be provided by the employer.

RENT DISPUTES COMMITTEE

11. 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.

GENERAL CONDITIONS

12. (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, gum boots, and, where necessary, respirators.

(3) **"Smoko"**—An interval of ten minutes shall be allowed all workers each morning and each afternoon. The employer shall provide brewed tea or hot water for all "smokos" 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.

SCHEDULE—*continued*

(6) **Ladders**—Ladders must be maintained to provide maximum safety. No female worker shall be required to handle ladders more than thirty pounds 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. No worker is to be conveyed in loaded trucks.

MEAL HOURS

13. 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.

WORKERS TO BE MEMBERS OF UNION

14. (1) Except as provided in subclause (3) of this clause, every worker employed within the scope of this order shall be required to become a financial member of the New Zealand Workers' Industrial Union of Workers. That union shall provide each employer bound by this order 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 (2) of this clause, the appropriate sum in respect of the seasonal subscription.

(2) For each week or part thereof being three days or more, the subscription shall be 1s. 6d. for each adult male worker and 1s. for every other worker including a weekend worker. A weekend worker, for the purposes of this clause, shall be deemed to be a worker who is employed by an employer on Saturday and Sunday only. The seasonal subscription shall be £1 15s. for an adult male worker and £1 for each other worker and as an alternative to having this subscription deducted from wages a worker may pay the same in cash direct to the union or to any duly authorised representative of the union.

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

- (a) Workers under sixteen years of age;
- (b) Members of the employer's own family;
- (c) Workers to whom certificates of exemption from membership of the union have been issued under section 175 of the Industrial Conciliation and Arbitration Act 1954 and are for the time being in force.

(4) Employers may, if they so desire, remit quarterly to the New Zealand Workers' Industrial Union of Workers the union fees deducted 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 moneys held on behalf of the union, but such calls shall not be made at less than four-monthly intervals.

SCHEDULE—*continued*

(5) Reasonable facilities shall be given to the union representative by the employers to visit workers employed in the industry:

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

CASUAL WORKERS

15. (1) This clause shall apply to all persons not deemed to be permanently employed, and the persons to whom this clause applies are herein referred to as casual workers.

(2) Rates of wages—	Per Hour	
	s.	d.
Adult male workers	5	4
Adult female workers	3	9
Youths—		
Under sixteen years	2	4½
Sixteen years and under eighteen years	2	10½
Eighteen years and under nineteen years	3	9
Nineteen years and under twenty-one years	4	8
Girls—		
Under sixteen years	2	1½
Sixteen years and under eighteen years	2	10½
Eighteen years and under nineteen years	3	1½
Nineteen years and under twenty-one years	3	6

(3) If in charge of four or more workers, the foreman or leading hand doing grading or packing work shall be paid 5d. per hour in excess of the ordinary rate. Further, any worker, if in charge of four or more workers and taking control of orchard work or of grading and packing operations, shall be also paid 5d. per hour in addition to his or her ordinary rate.

(4) Workers who have been ordered back overnight and upon attending find no work available shall be paid a minimum payment of two hours.

(5) Casual workers required to work overtime shall be paid overtime rates in accordance with the provisions of clause 6 of this Schedule.

(6) Notwithstanding the foregoing provisions of this clause, where owing to remoteness of the place of employment from the source of labour the foregoing 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 four 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 two representatives from the workers' union and two representatives from the employers.

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

(8) After four months' continuous employment with the same employer a worker shall be deemed to be a permanent employee unless at his or her own request he or she remains on the casual staff.

SCHEDULE—*continued*

TERMINATION OF EMPLOYMENT

16. Any worker leaving or being dismissed shall at the termination of the employment receive from the employer the wages due and holiday pay.

SCOPE OF ORDER

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

DISPLAY OF ORDER

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

T. J. SHERRARD,
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 is a consolidation of the Agricultural Workers (Orchardists) Extension Order 1955 and the amendments thereof, and incorporates new wage rates fixed by agreement between the organisations of the workers and employers and effective from 1 January 1958.

Provision is now made by clause 3 of the Schedule for work to be done on piecework or by cooperative contract.

The requirements as to union membership have been amended (a) to make new provision for payment of subscriptions and (b) to provide for objection to compulsory membership on religious grounds.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 6 February 1958.

These regulations are administered in the Department of Labour.