

1961/150



**THE AGRICULTURAL WORKERS (ORCHARDISTS)
EXTENSION ORDER 1961**

—
COBHAM, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 4th day of December
1961

Present:

THE RIGHT HON. KEITH HOLYOAKE PRESIDING 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.

—
O R D E R

1. This order may be cited as the Agricultural Workers (Orchardists) Extension Order 1961.

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* and shall continue in force until the 30th day of September 1963 and thereafter until a further order is made in substitution thereof.

(2) The provisions of this order relating to rates of wages shall be deemed to have come into force on the 1st day of October 1961.

4. The Agricultural Workers (Orchardists) Extension Order 1958* and the Agricultural Workers (Orchardists) Extension Order 1958, Amendment No. 1, are hereby revoked.

*S.R. 1958/16
Amendment No. 1: S.R. 1959/212

SCHEDULE

APPLICATION OF PART III OF AGRICULTURAL WORKERS ACT 1936 TO ORCHARDISTS

INTERPRETATION

1. (1) In this order, unless the context otherwise requires—
 “Act” means the Agricultural Workers Act 1936:
 “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 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 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 six 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 one week or 8 on any one 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 one week or 10 on any one 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 rate of wages for permanent workers shall be as follows:

	Weekly Wage		
	£	s.	d.
Managers	14	10	0
Other male workers of 21 years or over	12	10	0
Female workers	8	15	0
Youths:			
Under 16 years	4	10	0
16 years and under 17 years	5	10	0
17 years and under 18 years	6	10	0
18 years and under 19 years	7	10	0
19 years and under 20 years	8	15	0
20 years and under 21 years	10	5	0

WAGES OF CASUAL WORKERS

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

	Per Hour	
	s.	d.
Adult male workers	6	0
Adult female workers	4	3

SCHEDULE—*continued*

	Per Hour
	s. d.
Youths:	
Under 16 years	2 9
16 years and under 17 years	3 6
17 years and under 18 years	4 3
18 years and under 19 years	5 0
19 years and under 21 years	5 6
Girls:	
Under 16 years	2 6
16 years and under 17 years	3 3
17 years and under 18 years	3 6
18 years and under 19 years	3 9
19 years and under 21 years	4 0

SPECIAL PAYMENTS

5. (1) 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 also be paid 5d. 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 a minimum payment of two hours.

PIECEWORK AND CONTRACT WORK

6. 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 10 per cent above the appropriate rates set out in this order.

REMOTE WORK

7. Notwithstanding the provisions relating to employment of casual workers contained in clauses 4, 5, and 9 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 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.

UNDER-RATE WORKERS

8. Subsection (6) of section 14 of the Act 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:

SCHEDULE—*continued*

“(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 by the woman or girl in respect of her board and lodging pursuant to subclause (4) of clause 15 of this Schedule.”

OVERTIME AND PENAL RATES

Overtime

9. (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 three hours and double time thereafter.

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

Work on Saturday

(3) For the purpose of the workers' half-holiday, all work shall cease at noon on Saturdays, except in necessitous cases. Any work done on Saturday afternoon shall be paid for at overtime rates except in the case of frost-fighting which shall be paid for at ordinary rates.

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 10 hereof the following period:

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

(b) In other cases, two 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.

HOLIDAYS

10. (1) The following holidays shall be allowed to all permanent 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) All casual workers 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.

(3) 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.

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

TIME AND WAGES BOOK

11. Section 17 of the Act 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:

"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 21 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.

SCHEDULE—*continued*

“(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 who wilfully signs an incorrect record, shall be liable to a fine of £5.”

PAYMENT OF WAGES

12. (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) An 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.

(4) *Penalty for Breach:* Sections 18 and 19 of the Act 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.”

TERMINATION OF EMPLOYMENT

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

GENERAL CONDITIONS

14. (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 10 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.

SCHEDULE—*continued*

(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 30 lb 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.

(9) *Meal Hours*—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.

(10) *Proportion of Youths*—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.

(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.

ACCOMMODATION

15. (1) Where required, accommodation shall be provided as prescribed in Part II of the Act.

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

(3) Where females are employed accommodation similar to that prescribed in subclause (1) of this clause shall be provided, and in cases where accommodation is not provided suitable lavatories shall be provided by the employer.

(4) 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 18 years of age and under.

WORKERS TO BE MEMBERS OF UNION

16. (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.

SCHEDULE—*continued*

(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 16 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.

(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.

SCOPE OF ORDER

17. This order shall operate throughout New Zealand.

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 consolidates the Agricultural Workers (Orchardists) Extension Order 1958 and the amendment thereto, and amends that order by varying the rates of wages payable to agricultural workers employed in orchards as agreed by the organisations of the workers and of their employers. The opportunity has also been taken to re-draft the order without any change in its provisions other than the above.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 7 December 1961.

These regulations are administered in the Department of Agriculture.