

1960/22



THE AGRICULTURAL WORKERS (TOBACCO GROWERS) EXTENSION ORDER 1960

COBHAM, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 14th day of March 1960

Present:

THE RIGHT HON. W. NASH, C.H., 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 organisations 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 (Tobacco Growers) Extension Order 1960.

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 the tobacco industry in the Nelson Industrial District.

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 31st day of August 1960, and thereafter until a further order is made in substitution therefor.

(2) Subclause (1) of clause 2 and subclause (1) of clause 19 of the Schedule to this order shall be deemed to have come into force on the 1st day of December 1959.

4. The Agricultural Workers (Tobacco Growers) Extension Order 1954,* the Agricultural Workers (Tobacco Growers) Extension Order 1954, Amendment No. 2†, and the Agricultural Workers (Tobacco Growers) Extension Order 1954, Amendment No. 3‡, are hereby revoked.

*S.R. 1954/50

†S.R. 1958/43

‡S.R. 1958/82

SCHEDULE

FIELD SECTION

Hours of Work

1. (1) Except as hereinafter provided, the following hours may be worked:

(a) During the months of May to December, both inclusive, eight hours per day on Monday to Friday between the hours of 7 a.m. and 5 p.m., with a maximum of 40 hours a week:

(b) During the months of January, February, March, and April, eight hours per day on Monday to Saturday, both inclusive, between the hours of 7 a.m. and 6 p.m., with a maximum of 48 hours per week, workers to be notified on the previous day of the hour of starting work on the following day.

(2) During the months of May to December, both inclusive, workers who lose time in any week on account of weather or domestic circumstances may work not more than eight hours on the Saturday of that week in making up that time lost and shall be paid at ordinary rates of pay for that Saturday work:

Provided that the total working period for the week at ordinary rates shall not exceed 40 hours.

(3) The periods stated may be varied to suit particular tobacco growers by arrangement with the New Zealand Workers' Industrial Union of Workers and the New Zealand Tobacco Growers' Federation (Inc.).

Wages

2. (1) The minimum rates of pay shall be as follows: Per Hour

(a) Adult male workers	.....	.....	s.	d.
			5	7 $\frac{1}{4}$

(b) Youths—

Under 16 years of age	.....	.....	2	5 $\frac{1}{2}$
16 years and 17 years of age	.....	.....	3	7
18 years of age	.....	.....	4	7 $\frac{3}{4}$
19 years of age	.....	.....	5	0
20 years of age and over	.....	.....	5	7 $\frac{1}{4}$

(c) Female workers—

Under 16 years of age	.....	.....	2	5 $\frac{1}{2}$
16 and 17 years of age	.....	.....	3	3
18 and 19 years of age	.....	.....	3	7
20 years of age and over	.....	.....	3	11 $\frac{1}{4}$

Hand hoeing by females shall be at the option of the worker. Females shall not hand hoe in company with male workers.

(2) Wages shall be paid weekly in cash not later than Thursday, and in the employer's time, unless otherwise agreed to between the employer and the worker:

Provided that a worker who completes his employment in any week shall be paid upon the termination of that work.

SCHEDULE—continued*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 tobacco plantations 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 on any plantation 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

4. Sections 18 and 19 of the Agricultural Workers Act 1936 shall extend and apply to workers employed or intending to be employed in tobacco plantations. 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. (1) Overtime shall be computed after eight hours have been worked on any day (Sunday, Anzac Day, and statutory holidays excepted, and, subject to clause 1 (2) of this Schedule, Saturday also excepted), and shall be paid for at time and a half rates for the first three hours and double time thereafter. Subject to clause 1 (1) (b) of this Schedule,

SCHEDULE—*continued*

work performed on Saturday forenoon shall be paid for at time and a half rates for the first four hours and double time thereafter, and work performed on Saturday afternoon, Sunday, and on any of the holidays prescribed in clause 7 (1) of this Schedule shall be paid for at double time rates.

(2) All time worked before the ordinary time for starting and after the ordinary time for ceasing work shall be deemed to be overtime, and shall be paid for at the rate of time and a half for the first three hours and double time thereafter.

Time and Wages Book

6. Section 17 of the Agricultural Workers Act 1936 shall apply to every tobacco plantation in which one or more workers are employed, so as to read in its application to agricultural workers employed in plantations as follows:

(1) On every plantation 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 starting and finishing times on each day, to be entered each day:

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

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

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

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

Holidays

7. (1) Any worker coming within the scope of the Field Section of this Schedule who has been employed in the industry for a period (not necessarily continuous) 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: Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, Queen's Birthday, Labour Day, Anzac Day, and Anniversary Day or a day in lieu thereof at the convenience of the employer. Where any worker has been employed upon work coming within the scope of this order by more than one employer during the fortnight ending with

SCHEDULE—*continued*

the day on which any of the above holidays occur, he shall be entitled to receive payment for the holiday from such one or more of these employers, and if more than one, in such proportions as the Inspector determines. Any worker employed on any of the aforementioned holidays 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) In the event of a holiday, other than Anzac Day, falling on a Saturday or a Sunday, that 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.

Accommodation

8. (1) 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 purpose 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.

SCHEDULE—*continued*

“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 workers, 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.

“(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.”

SCHEDULE—continued

(2) In any case in which a worker or workers who occupy accommodation provided by the employer damage that accommodation or the contents thereof, or cause or permit any such damage to be done (fair wear and tear and damage by fire or inevitable accident excepted), the employer may, in any such case or cases, deduct from wages payable to any such worker or workers the cost of repairing and making good the damage. In the event of the employer and worker or workers being unable to agree upon the sum payable for the damage, the question shall be deemed to be a dispute under clause 13 of this Schedule and shall be settled as provided therein.

(3) No accommodation shall be part of a kiln or built on to a kiln. Any such existing accommodation shall be removed by the employer as soon as practicable. This subclause shall not apply to the kiln bunk house.

(4) The employer shall provide wire beds, pillows, and mattresses other than straw.

(5) All lavatories shall be brought up to a reasonable standard.

Accommodation For Female Workers

9. Where females are employed, separate accommodation similar to that prescribed by clause 8 of this Schedule shall be provided.

Meal Hours

10. No worker shall be employed more than four and a half hours continuously (including "smoke-oh") without an interval of one hour for a meal:

Provided that if the majority of the workers concerned agree, the meal interval may not be less than half an hour.

Union Membership

11. (1) Every worker employed within the scope of these provisions 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 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 310, Christchurch, the sum of £1 10s. for each adult male worker and 15s. for each other worker.

(2) Reasonable facilities shall be given to all employees on tobacco plantations to become members of the New Zealand Workers' Industrial Union of Workers; and upon the visit of the official organiser or other accredited representative of the union each worker shall pay his union contribution by cash or order on his employer.

Termination of Employment

12. (1) Should any worker desire to leave the employment he or she shall give the employer 48 hours' notice of his or her intention to do so, or forfeit two days' pay. Should the employer desire to dismiss any

SCHEDULE—*continued*

worker, he shall give the worker two days' notice or two days' pay, except where it is for incompetence or wilful disobedience of orders, when the dismissal may be summary and without compensation.

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

Settlement of Disputes

13. The workers on each tobacco plantation shall elect from their own workmates a union representative and, where possible, a committee of two other workers. This committee, through their union representative and the employer, shall, as far as possible, settle all disputes arising between the workers and the employer or his agent. If in any case a satisfactory settlement is not reached, a union representative shall submit the dispute to the union branch office in the district. Failing settlement with the latter, the dispute shall be referred by the branch office to the New Zealand Workers' Industrial Union of Workers and the New Zealand Tobacco Growers' Federation for determination. Pending the settlement of any dispute, work shall proceed as usual, and the decision shall be made to operate retrospectively.

Conditions

14. (1) "*Smoke-oh*"—Ten minutes in the morning and in the afternoon for "*smoke-oh*" shall be allowed and paid for as time worked. The employer shall provide brewed tea or hot water for "*smoke-oh*" and lunch if requested by a worker when working away from the home kiln.

(2) *Medical Outfit*—A suitable and fully equipped medical first-aid outfit shall be kept by all employers in a convenient place accessible to workers for use only in the event of an accident.

(3) If any worker meets with an accident necessitating medical attention, he shall be conveyed to the nearest hospital or doctor as speedily as possible by the employer free of charge.

(4) Upon their request, workers in each case shall be provided with overalls or waterproof aprons when handling wet leaf, and, in the case of females only, with rubber gloves and plastic sleeves. All workers shall return all such articles or pay their cost at the termination of their employment.

(5) No female worker shall be required to lift or carry unassisted any weight over 40 lb. No male worker shall be required to lift or carry unassisted any weight over 145 lb.

(6) Employers shall supply adequate water and soap for washing hands at kilns.

(7) Female workers shall be supplied with sacks underfoot when working at tying and passing leaf.

(8) No female shall be required to climb and pass loaded sticks overhead in kilns.

(9) Employers shall provide reasonable access to kilns, and no female worker shall be required to step over flue pipes while loading or unloading kilns.

SCHEDULE—continued

(10) Adequate shelter shall be provided for workers, if required, while tying and passing leaf and having lunch.

(11) Adequate precautions shall be taken to ensure the safety and comfort of workers being conveyed in open trucks.

(12) A copy of this Schedule shall be posted up at all kilns.

Meal Allowance

15. If a worker is required to work after 6 p.m. on any day he or she shall be provided with a meal or paid 4s. in lieu thereof:

Provided that when workers neglect or refuse to start work at times appointed by the employer no such provision or payment will be made.

Renewal of Agreement

16. Within two months of the expiration of this agreement the parties affected shall open negotiations for a new agreement and failing a settlement within two months shall refer the matter to a committee which shall consist of two representatives of the growers who are parties to this agreement and two representatives of the workers, with an independent chairman to be mutually agreed upon and appointed by the parties.

SHED SECTION***Application***

17. (1) This section shall apply to all workers engaged in the buying and receiving of raw tobacco leaf and the redrying operations, packing, grading, receiving, and storing of raw leaf tobacco in the sheds situated in the Nelson Industrial District.

(2) The preceding clauses which shall apply to this section (Shed Section) of this Schedule are as follows:

Clause 3: Under-rate Workers.

Clause 4: Penalty for Breach.

Clause 6: Time and Wages Book.

Clause 11: Union Membership.

Clause 12: Termination of Employment.

Clause 13: Settlement of Disputes.

Clause 14: Conditions (subclauses (2) and (3)).

Clause 16: Renewal of Agreement.

Hours of Work

18. (1) The ordinary hours of work shall be 40 hours per week, to be worked on five days of the week between the hours of 7.30 a.m. and 5 p.m., Monday to Friday inclusive:

Provided that no female workers shall be called upon to start before 8 a.m.

(2) In the case of essential work, or work of a nature that must be performed continuously, shifts may be worked as mutually arranged between the union shed representative and the employer concerned, and in any such case each worker on shift work shall receive 3s. 2d. per shift in addition to his or her ordinary rate of pay.

SCHEDULE—*continued*

(3) Three-quarters of an hour shall be allowed for a meal between the hours of 11.30 a.m. and 1 p.m.

Rates of Wages

			Per	Hour
			s.	d.
19. (1)	The minimum rates of pay shall be as follows:		5	7½
(a)	Adult male workers	.....	5	7½
(b)	Youths—			
	Under 16 years of age	.....	2	5½
	16 years and 17 years of age	.....	3	7
	18 years of age	.....	4	7¾
	19 years of age	.....	5	0
	20 years of age and over	.....	5	7½
(c)	Female workers—			
	Under 16 years of age	.....	2	5½
	16 years and 17 years of age	.....	3	3
	18 years and 19 years of age	.....	3	7
	20 years of age and over	.....	3	11½

(2) *Tradesmen*—In the event of tradesmen being employed in their capacity as such, they shall be paid the rates of pay prescribed by the award or industrial agreement for such workers in the Nelson Industrial District.

(3) Wages shall be paid in cash at weekly intervals, and not later than Friday of each week.

Overtime

20. (1) Time worked in excess of eight hours per day or per shift, or outside of the clock hours specified in clause 18 (1) of this Schedule (except in the case of shift workers), shall be paid for at the rate of time and a half for the first three hours and thereafter at double time rates.

(2) Time worked on any Saturday forenoon shall be paid for at the rate of time and a half for the first four hours and thereafter at double time rates.

(3) Time worked on any Saturday afternoon and Sunday shall be paid for at double time rates. Time worked on a statutory holiday shall be paid for at double time rates in addition to any holiday payment due.

Holidays

21. (1) The employer shall allow to each worker in his employ the following holiday—the Queen's Birthday—and shall pay each worker for that holiday.

(2) Holidays shall be allowed in accordance with the Annual Holidays Act 1944.

Allowances

22. Tobacco workers required to shovel coal shall be paid 3½d. per hour (with a minimum of three hours) in addition to ordinary rates of pay.

SCHEDULE—*continued**Conditions of Employment*

23. For the better sanitation of premises, the following rules shall be at all times observed:

- (a) The premises shall be kept in a cleanly state and free from any smell or leakage arising from any drain, privy, or other nuisance:
- (b) Sufficient privy accommodation shall be provided for all persons employed on the premises, the accommodation to be entirely separate for each sex, so as to ensure privacy:
- (c) The premises shall be ventilated in such manner as to provide a sufficient supply of fresh air, and adequate lighting shall be provided:
- (d) A sufficient supply of pure drinking water shall be provided for the free use of the persons employed on the premises:
- (e) No male junior worker under 18 years of age shall be required to lift or carry unassisted any weight over 65 lb:
- (f) No female worker shall be required to lift or carry unassisted any weight over 40 lb:
- (g) No individual male worker shall be required to carry unassisted any weight over 145 lb.

Notice of Overtime and Meal Money

24. Twenty-four hours' notice shall be given by the employer to any worker called upon to work overtime after the ordinary time for ceasing work. When less than 24 hours' notice has been given 4s. shall be paid for tea or lunch money. Where a worker has been notified on the previous day that he or she will be required to work overtime and overtime is not made available, tea or lunch money shall be provided.

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 replaces the Agricultural Workers (Tobacco Growers) Extension Order 1954 and amendments thereto. It incorporates new rates of wages for both field and shed workers fixed by agreement between the organisations of employers and workers and effective from 1 December 1959, following upon the last general order of the Court of Arbitration. It also consolidates the Agricultural Workers (Tobacco Growers) Extension Order 1954 and other amendments already made thereto.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 17 March 1960.

These regulations are administered in the Department of Labour.