

1962/2



**THE AGRICULTURAL WORKERS (TOBACCO GROWERS)
EXTENSION ORDER 1962**

—
COBHAM, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 31st day of January 1962

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 organisations of their employers of the proposal to extend Part III of the said Act as hereinafter appears, and in accordance with the proposals of the said Minister and the recommendation of the Court of Arbitration, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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O R D E R

1. This order may be cited as the Agricultural Workers (Tobacco Growers) Extension Order 1962.

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 on tobacco plantations in the tobacco industry in the Nelson Industrial District.

3. (1) Except as provided by 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 1962, and thereafter until a further order is made in substitution therefor.

(2) Clauses 1 and 2 of the Schedule to this order shall be deemed to have come into force on the 1st day of December 1961, and shall continue in force as provided by subclause (1) of this clause.

4. The Agricultural Workers (Tobacco Growers) Extension Order 1960,* is hereby revoked.

SCHEDULE

HOURS OF WORK

1. (1) Except as hereinbefore 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 organisation of workers and the organisations of employers.

WAGES

		Per hour	
		s.	d.
2. (1)	The minimum rates of pay shall be as follows:		
(a)	Adult male workers	6	0
(b)	Youths—		
	Under 16 years of age	2	10½
	16 years of age	4	0
	17 years of age	4	6
	18 years of age	5	0
	19 years of age	5	6
	20 years of age and over	6	0
(c)	Female workers—		
	Under 16 years of age	2	10½
	16 years of age	3	6
	17 years of age	3	8
	18 years of age	3	10
	19 years of age	4	0
	20 years of age and over	4	3

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

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:

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 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, 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.

SCHEDULE—*continued*

(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 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:

“17. (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 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 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

SCHEDULE—*continued*

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) 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 or each male worker under the age of 21 years who for the time being is in receipt of not less than the minimum rate of wages prescribed by this order for workers of the age of 20 years and upwards, 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

SCHEDULE—*continued*

shall be £1 15s. for each adult male worker or each male worker under the age of 21 years who for the time being is in receipt of not less than the minimum rate of wages prescribed by this order for workers of the age of 20 years and upwards, and £1 for every other worker. As an alternative to having his seasonal subscription deducted from his wages, a worker may pay the same in cash directly to the union or to any duly authorised representative of the union.

(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 a union have been issued under section 175 of the Industrial Conciliation and Arbitration Act 1954 and 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 representatives 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 employer's work.

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 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. (1) The workers on each tobacco plantation shall elect from among themselves a plantation representative and, where possible, a committee comprising two other workers. If any dispute arises between the workers and their employer, the committee acting by and through the plantation representative, shall endeavour to settle the dispute with the employer.

(2) If the employer and the committee are unable to settle the dispute the plantation representative shall submit the dispute to the branch office of the organisation of workers affected by this order in the district in which the dispute occurs, and the employer and the branch office shall endeavour to settle the dispute.

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SCHEDULE—*continued*

(3) If the employer and the branch office are unable to settle the dispute, it shall be referred by the branch office to the organisation of workers affected by this order and to the organisations of employers in the industry for determination.

(4) The work of the employer shall not be interrupted or hindered by reason of any dispute, and the decision by which any dispute is determined 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.

(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 5s. 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.

SCHEDULE—*continued*

PROPOSALS FOR NEW ORDER

16. Within two months prior to the 31st day of August 1962 the organisation of the workers of the class affected by this order and the organisations of their employers may commence negotiations with the object of reaching agreement on proposals for a new order:

Provided that if the organisations are unable to reach agreement within two months after the date on which the negotiations commenced, they shall refer the matter to a committee consisting of representatives from the organisation of workers affected and an equal number of representatives from the organisations of employers affected (including at least one representative from each employer's organisation) together with an independent chairman to be agreed upon and appointed by the said organisations.

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 1960 in so far as that order affected workers and employers on tobacco plantations. It incorporates new rates of wages and meal money and new provisions for membership of a union of workers, the settlement of disputes, and the making of a new order as recommended by the Court of Arbitration consequent on a reference to the Court under section 4 of the Statutes Amendment Act 1945.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 1 February 1962.

These regulations are administered in the Department of Labour.