

1965/23



**THE AGRICULTURAL WORKERS (TOBACCO GROWERS)
ORDER 1965**

—
BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 8th day of March 1965

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., PRESIDING IN COUNCIL

PURSUANT to Part III of the Agricultural Workers Act 1962, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

—
ORDER

1. (1) This order may be cited as the Agricultural Workers (Tobacco Growers) Order 1965.

(2) Except as provided by subclause (3) 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 1966, and thereafter until a further order is made in substitution thereof.

(3) The provisions of this order relating to rates of wages shall be deemed to have come into force on the 2nd day of November 1964.

2. (1) This order shall apply to agricultural workers employed on tobacco plantations in the tobacco industry in the Nelson Industrial District.

(2) The conditions of employment set out in the Schedule to this order shall apply in respect of those workers.

3. The Agricultural Workers (Tobacco Growers) Extension Order 1962* and the Agricultural Workers (Tobacco Growers) Extension Order 1962, Amendment No. 1†, are hereby revoked.

*S.R. 1962/2
†S.R. 1963/21

SCHEDULE

Cl. 2 (2)

INTERPRETATION

1. (1) In this order, unless the context otherwise requires,—
 “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 (whether that period or any part thereof is before or after the commencement of this order) unless at his or her own request he or she remains a casual worker:
- (b) In any other case if the employer and the worker so agree.

HOURS OF WORK

2. (1) 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 organisation of employers.

WAGES

3. (1) The minimum rates of wages for adult permanent workers shall be as follows:

				Per Week		
				£	s.	d.
Males	.....	.....	.....	14	0	0
Females	.....	.....	.....	10	10	0

SCHEDULE—*continued*

(2) The minimum rates of wages for casual workers and workers under 20 years of age shall be as follows:

	Per Hour
	s. d.
(a) Adult male workers	6 9
(b) Youths:	
Under 16 years of age	3 2
16 years and under 18 years of age	5 0
18 years and under 20 years of age	6 0
20 years of age and over	6 9
(c) Female workers:	
Under 16 years of age	3 2
16 years and under 18 years of age	4 0
18 years and under 20 years of age	4 6
20 years of age and over	5 0.

OVERTIME

4. (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 2 (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 2 (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 9 (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.

MEAL ALLOWANCES

5. 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. 6d. 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.

UNDER-RATE WORKERS

6. Sections 24 and 25 of the Agricultural Workers Act 1962 apply to employment under this order. The said sections read as follows:

“24. **Permit to work for less than minimum wage**—(1) 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 any Order in Council made pursuant to Part III of this Act, 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 section shall continue

SCHEDULE—*continued*

in force for the period specified in the permit; and while it continues in force the rate of wages prescribed in the permit shall be deemed to be the minimum rate of wages prescribed under Part III of this Act in respect of that worker.

“(2) Notwithstanding that the rate of wages specified in a permit under this section may be less than the minimum rate for the time being prescribed in the Minimum Wage Act 1945, or any Order in Council made pursuant thereto, such permit shall have full effect as if issued under that Act.

“25. **Permit for female to work for less than minimum wage**—A permit may be granted under section 24 of this Act to any woman or girl employed as an agricultural worker if the Inspector is satisfied having regard to the conditions of her employment, the nature of 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 section 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 any Order in Council made under Part III of this Act.”

PENALTY FOR BREACH

7. Sections 20 and 21 of the Agricultural Workers Act 1962 apply to employment under this order. The said sections read as follows:

“20. **Breaches of orders**—(1) If any employer makes default in the full payment of any wages or other remuneration payable by him pursuant to any order made under this Part of this Act, or if any employer or worker of a class affected thereby fails to observe any provision of or any requirement imposed by any such order he commits a breach of the order and shall be liable to a penalty not exceeding fifty pounds in respect of every such breach.

“(2) Any penalty under this section may be recovered at the suit of an Inspector or of any organisation of workers of a class affected by the order or of any organisation of their employers in the same manner as a penalty for breach of an award may be recovered under the Industrial Conciliation and Arbitration Act 1954 and the provisions of sections 200 to 210 of that Act shall apply accordingly with such modifications as may be necessary.

“21. **Recovery of arrears of wages**—Without affecting any other remedies for the recovery of money payable to any agricultural worker, proceedings for the recovery of wages or other money payable by an employer to any agricultural worker pursuant to an order made under this Part of this Act may be taken by an Inspector in the same manner as proceedings under the Industrial Conciliation and Arbitration Act 1954 for the recovery of money due to a worker by his employer under an award or agreement, and all the provisions of that Act relating to the recovery of money due to workers under awards or agreements shall, with the necessary modifications, apply accordingly.”

SCHEDULE—*continued*

WAGES AND HOLIDAY BOOK

8. (1) On every plantation on which one or more agricultural workers are employed the employer shall at all times keep a record in English (called the wages and holiday book) showing in the case of each agricultural worker employed by him,—

- (a) The name of the worker:
- (b) His age, if he is under 21 years of age:
- (c) The starting and finishing times on each day to be entered each day:
- (d) The days on which he has actually been employed:
- (e) The wages paid on each pay day, the date of payment, and the period to which payment relates:
- (f) The days on which he is allowed any holiday:
- (g) The wages paid for each holiday and the date of payment:

Provided that in respect of any worker employed upon piecework it shall be sufficient if the wages and holiday book shows the following particulars:

- (a) The name of the worker:
- (b) The rate agreed for piecework:
- (c) The days upon which or the period during which the worker was employed:
- (d) The wages paid and the date of payment:
- (e) The wages paid for each holiday and the date of payment.

(2) 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 an Inspector.

HOLIDAYS

9. (1) Any worker coming within the scope of this order 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 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.

SCHEDULE—*continued*

ACCOMMODATION

10. (1) Where required, accommodation shall be provided in accordance with Part II of the Agricultural Workers Act 1962 and the Agricultural Workers Accommodation Regulations 1963.*

Sections 9, 10, 13, and 14 of the Agricultural Workers Act 1962 which are contained in Part II of that Act read as follows:

“9. **Accommodation to be provided for workers**—(1) Subject to section 11 of this Act, it shall be the duty of every employer to provide sufficient and suitable accommodation for every agricultural worker employed by him.

“(2) No accommodation shall be sufficient and suitable for the purposes of this Act unless it conforms to or is superior to the prescribed requirements.

“(3) The provisions of this section shall not apply in the case of any agricultural worker, who,—

“(a) In the opinion of an Inspector, can conveniently sleep at his own home; or

“(b) Chooses to provide his own sleeping accommodation; or

“(c) Is a married man accompanied by his wife or family.

“10. **Plans of accommodation**—(1) Every employer shall, before erecting any building or part of a building which is to be used for the accommodation of agricultural workers, submit to an Inspector for his approval a copy of the plans and specifications for the proposed work.

“(2) The Inspector shall approve the plans and specifications if he is satisfied that they indicate that the building will conform to or be superior to the prescribed requirements. If he is not satisfied as aforesaid he shall either approve them subject to such modifications as he thinks necessary to make the building conform to the prescribed requirements, or refuse to approve them.

“(3) No employer shall erect any building or part of a building which is to be used for the accommodation of agricultural workers except in accordance with plans and specifications approved under this section.

“(4) The Inspector shall be entitled to retain the copy of the plans and specifications submitted to him under this section.

“(5) Every employer who fails to comply with the provisions of subsection (1) or subsection (3) of this section commits an offence against this Act.

“13. **Damage by workers**—(1) If any agricultural worker negligently causes or suffers any damage to be done to any accommodation, utensils, appliances, furniture, fittings or other requisites provided under this Act he commits an offence against this Act.

“(2) On the conviction of any person for an offence against this section the Court may order that the person convicted shall pay, by way of compensation to the person whose property is damaged, such sum of money as the Court thinks fit.

SCHEDULE—*continued*

“14. **Accommodation to be kept clean**—(1) Every worker shall keep the rooms occupied by him and the surroundings clean and free of all rubbish and, if he fails to do so, the employer may employ some other person to do the work, and may deduct the cost of such work from any money due to or accruing due to the worker occupying the rooms.

“(2) The employer shall ensure that the accommodation and the surroundings of the accommodation are clean and free of all rubbish before occupation by agricultural workers.”

(2) 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 bunkhouse.

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

(4) Where members of both sexes are employed, not being members of the same family, the sleeping accommodation for each sex shall be separate so as to ensure privacy.

MEAL HOURS

11. 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 be reduced to a period of not less than half an hour.

UNION MEMBERSHIP

12. (1) Except as provided in subclause (7) of this clause, every worker to whom this order applies shall, if he is not already a member of the New Zealand Workers’ Industrial Union of Workers, become a member of such union.

(2) Subject to subclause (1) of this clause, every worker to whom this order applies shall remain a member of the union so long as he continues to be such a worker.

(3) Every worker obliged under subclause (1) of this clause to become a member of the union who fails to become a member, as required by that subclause, after being requested to do so by an officer or authorised representative of the union, and every worker who fails to remain a member of the union in accordance with subclause (2) of this clause commits a breach of this order.

(4) Every employer commits a breach of this order if he continues to employ any worker to whom this order applies after having been notified by any officer or authorised representative of the union that the worker has been requested to become a member of the union and has failed to do so, or that the worker having become a member of the union has failed to remain a member.

(NOTE—Attention is drawn to section 174H of the Industrial Conciliation and Arbitration Act 1954 which gives to workers the right to join the union.)

SCHEDULE—*continued*

(5) The union shall provide each employer who employs any worker to whom this order applies 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 (6) of this clause, the appropriate sum in respect of the seasonal subscription.

(6) 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 over, and 1s. for every other worker, including a weekend worker. A weekend worker, for the purposes of this subclause, shall be a worker who is employed by an employer on Saturday and Sunday only. The seasonal subscription shall be £2 5s. 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 over, and £1 10s. 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.

(7) 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.

(8) 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 money held on behalf of the union, but such calls shall not be made at less than four-monthly intervals.

(9) Employers shall give the union representatives reasonable facilities to visit workers to whom this order applies:

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

TERMINATION OF EMPLOYMENT

13. (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 the dismissal is for incompetence or wilful disobedience of orders, when the dismissal may be summary and without compensation.

SCHEDULE—*continued*

(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

14. (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.

(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 organisation 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.

MISCELLANEOUS CONDITIONS

15. (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*—The first-aid appliances and requisites which every employer is required to provide and maintain by section 28 (1) of the Agricultural Workers Act 1962 shall be kept in a convenient place accessible to workers and shall be used 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) Hand hoeing by females shall be at the option of the worker. Females shall not hand hoe in company with male workers.

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

SCHEDULE—*continued*

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

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

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

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

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

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

PROPOSALS FOR NEW ORDER

16. Within two months prior to the 31st day of August 1966 the organisation of the workers of the class affected by this order and the organisation 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 organisation of employers affected 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 1962. It incorporates new rates of wages and meal money, and new provisions relating to the wages and holiday book, membership of union, and accommodation.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 11 March 1965.

These regulations are administered in the Department of Labour.