



**THE AGRICULTURAL WORKERS (TOBACCO GROWERS)
ORDER 1975**

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 7th day of July 1975

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL 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. Title and commencement—(1) This order may be cited as the Agricultural Workers (Tobacco Growers) Order 1975.

(2) 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 January 1976, and thereafter until a further order is made in substitution therefor.

(3) The provisions of this order relating to rates of wages shall be deemed to have come into force on the 31st day of January 1975.

2. Application—(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. Revocations—The Agricultural Workers (Tobacco Growers) Order 1969*, the Agricultural Workers (Tobacco Growers) Order 1969, Amendment No. 1, and the Agricultural Workers (Tobacco Growers) Order 1969, Amendment No. 2, are hereby revoked.

*S.R. 1969/57

Amendment No. 1: S.R. 1970/232

Amendment No. 2: S.R. 1972/145

Clause 2 (2)

SCHEDULE

HOURS OF WORK

1. (1) The following hours may be worked:

- (a) During the months of May to December, both inclusive, 8 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, 8 hours per day on Monday to Saturday, both inclusive, between the hours of 7 a.m. and 5 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 8 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

2. (1) The minimum rates of wages shall be as follows:

		Male Per Hour \$	Female Per Hour \$
Adult workers (20 years and over) .....	.....	1.50	1.28
Under 16 years of age .....	.....	0.70	0.70
16 years and under 18 years of age .....	.....	1.08	0.96
18 years and under 20 years of age .....	.....	1.37	1.16

(2) All workers over 16 years of age, male and female, not provided with accommodation shall be paid 12 cents per hour additional to the above rates. This allowance shall be payable in respect of all time worked but shall not be taken into account when computing overtime.

(3) Workers who report for work in the morning and for whom there is no work available, shall be paid as if they have worked for two hours.

COST OF LIVING ORDER: 15 JANUARY 1975

3. Notwithstanding the provisions of clause 2 (1) of this Schedule, the remuneration in each week of the workers affected, calculated at the hourly rates therein set out, shall, as from the commencement of this order, be increased by 4 percent:

Provided that there shall be excluded from the scope of the increase provided for in this clause such portion of the remuneration in each week as exceeds the amount of \$75.

SCHEDULE—*continued*

OVERTIME

4. (1) Overtime shall be computed after 8 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 3 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 4 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 3 hours and double time thereafter.

(3) Workers who have been ordered back overnight shall, upon attending, be paid a minimum of 2 hours pay at the appropriate rate.

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 \$1.50 in lieu thereof:

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

SCHEDULE—*continued*

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 in part 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 \$100 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 Relations Act 1973* . . .

“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 Relations Act 1973* 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.”

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 20 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:

- (i) The name of the worker:
- (ii) The rate agreed for piecework:

*Reference to the Industrial Relations Act 1973 was substituted for reference to the Industrial Conciliation and Arbitration Act 1954 by section 234 (2) (a) of the Industrial Relations Act 1973.

SCHEDULE—*continued*

(iii) The days upon which or the period during which the worker was employed:

(iv) The wages paid and the date of payment:

(v) 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 2 years, shall at all times be open to inspection by an Inspector.

(3) In the event of a complaint being made by a worker to the union the employers wage book shall be open to inspection by an official of the Union.

HOLIDAYS

9. (1) Any worker coming within the scope of this Order who has been employed at any time during the fortnight ending on the day on which any of the holidays hereinafter mentioned occurs shall be entitled to that holiday on pay calculated at the rate of one tenth of the amount paid to him for ordinary time worked by him during that fortnight: Christmas Day, Boxing Day, New Year's Day, New Zealand Day, Good Friday, Easter Monday, Queen's Birthday, Labour Day, picnic day (which shall be held during October or November) or one day in lieu thereof, Anzac Day, and Anniversary Day or a day in lieu thereof at the convenience of the employer.

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, as amended in 1974.

(3) In the event of a holiday, other than Anzac Day or New Zealand 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

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

SCHEDULE—*continued*

“(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.

“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 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 bunk-house.

(3) The employer shall provide good quality wire beds, pillows and rubber, kapoc or innerspring mattresses, plus a wardrobe and chest of drawers for clothes.

(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.

(5) Each worker on taking up employment shall be required to sign an authority form giving his employer the right to make a deduction from his earnings in respect of electricity, if he is accommodated by the employer in accommodation to which electricity is supplied.

(6) The amount to be deducted from the earnings of each occupant pursuant to any such authority shall—

SCHEDULE—*continued*

- (a) If the electricity supplied to the accommodation is not metered, be 10 cents for each day or part of a day on which he has occupied the accommodation; and
- (b) If the electricity supplied to the accommodation is metered, be an amount arrived at by dividing the cost of the electricity used (as shown by the meter) equally between the occupants in proportion to the days on which they have occupied the accommodation.”

MEAL HOURS

11. (1) Subject to subclause (2) of this clause, no worker shall be employed more than 5 hours continuously (including “smoke-oh”) without an interval of 1 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.

(2) Where any worker is required to work more than 5 hours without a break for a meal he shall be paid half the ordinary rate in addition to the rate appropriate at the time.

UNION MEMBERSHIP

12. (1) Except as provided in subclause (6) of this clause, every worker to whom this order applies shall become and shall remain during his employment a financial member of the New Zealand Workers’ Industrial Union of Workers.

(2) Every worker to whom subclause (1) of this clause applies shall authorise his employer in writing to deduct from all wages accruing to the worker the amount of union subscription payable in accordance with subclause (5) of this clause and not paid at the time, and shall stipulate whether the employer shall make one deduction of the seasonal subscription or weekly deductions of proportionate amounts thereof.

(3) Every employer commits a breach of this order if he employs any worker who is in default under subclause (1) or subclause (2) of this clause.

(NOTE—Attention is drawn to section 104 of the Industrial Relations Act 1973 which gives to workers the right to join the union.)

(4) 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 (5) of this clause, the appropriate sum in respect of the seasonal subscription.

(5) For each week or part thereof being 3 days or more, the subscription shall be 30 cents for each adult male worker, and each male worker under the age of 20 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 20 cents 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 \$15.60 for each adult male worker, and each male worker under the age of 20 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 \$10.40 for every other worker.

SCHEDULE—*continued*

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

- (a) Workers under the age of 16 years if not receiving adult rate:
- (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 106 of the Industrial Relations Act 1973 and for the time being in force.

(7) 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 4-monthly intervals.

(8) Employers shall give the union representatives half an hour 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.

(9) Every employer shall, after being requested to do so by an officer or authorised representative of the New Zealand Workers' Industrial Union of Workers, supply the names and addresses of the workers who are employed by him and to whom this order applies and shall make the wage book available for inspection.

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 2 days' pay. Should the employer desire to dismiss any worker, he shall give the worker 2 days' notice or 2 days' pay, except where the dismissal is for 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 within 2 hours.

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.

SCHEDULE—*continued*

(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 coffee, milk and sugar 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) Workers shall be provided with waterproof aprons, parkas and leggings when working in the rain or 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 18 kg. No male worker shall be required to lift or carry unassisted any weight over 54 kg.

(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 or detergent for washing hands.

(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 while 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 and living accommodation.

(14) Where a worker is required by the employer to do additional work after loading a kiln on a job and finish basis he shall be paid for such additional work at time and a half rates of pay.

PAYMENT OF WAGES

16. (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.

SCHEDULE—*continued*

PIECEWORK AND CONTRACT WORK

17. Subject to the terms and conditions of this order, where it is mutually agreed between the employer and the worker concerned, work may be performed on piecework or by co-operative 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 percent above the appropriate rates set out in this order.

SICK LEAVE

18. (1) Every worker with continuous service exceeding one season shall be entitled to sick pay for up to 5 days per season calculated on the basis of an 8 hour day at his ordinary rate of pay.

(2) No sick pay shall be payable for only 1 day's absence.

(3) The employer may require a claim for sick pay to be supported by a medical certificate.

(4) The worker shall ensure that notice is given to the employer on the first day of any absence due to illness.

(5) No sick pay shall be paid to a worker for an absence in respect of which he is entitled to compensation for lost earnings pursuant to the Accident Compensation Act 1972.

A. C. McLEOD,

Acting for the 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) Order 1969, as amended by the Agricultural Workers (Tobacco Growers) Order 1969, Amendment No. 1, and the Agricultural Workers (Tobacco Growers) Order 1969, Amendment No. 2.

As from 31 January 1975 it provides new rates of remuneration in substitution for those previously payable; with the new rates to be further increased by the amounts specified in the cost of living order operative from 15 January 1975.

Several new conditions of employment are also introduced. Workers who report as usual, or as directed, and find that there is no work must be paid for 2 hours work. Work done after loading a kiln on a job and finish basis is to be paid at time and a half. Wage books are to be open to inspection by union representatives in the event of a complaint. Work continuing for more than 5 hours without a meal break is to be paid at time and a half. Copies of the order are to be posted in living accommodation as well as at kilns. Wages are to be paid in cash weekly, unless some other method is agreed.

Employers and employees may now agree to work being done on a contract or piecework basis, so long as the rates of pay are high enough to ensure that an average worker will be able to earn 10 percent more than at prescribed hourly rates.

New provisions enable workers to be paid for days when they are away sick in certain circumstances.

Remuneration for females in this order is at the rates required under the second step towards equal pay pursuant to the Equal Pay Act 1972.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 10 July 1975.

This order is administered in the Department of Labour.