

1976/96



**THE WAGE ADJUSTMENT REGULATIONS 1974,
AMENDMENT NO. 8**

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 12th day of April 1976

Present:

THE HON. B. E. TALBOYS PRESIDING IN COUNCIL

PURSUANT to the Economic Stabilisation Act 1948, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Wage Adjustment Regulations 1974, Amendment No. 8, and shall be read together with and deemed part of the Wage Adjustment Regulations 1974* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. New Zealand Symphony Orchestra—Regulation 44 of the principal regulations is hereby amended by inserting, after paragraph (a) of subclause (1), the following paragraph:

“(ab) Is payable to persons employed by the Broadcasting Council of New Zealand as members of the Symphony Orchestra mentioned in section 12 of the Broadcasting Act 1973; or”.

3. Redundancy—The principal regulations are hereby amended by inserting, after Part III, the following Part:

*S.R. 1974/143

Amendment No. 1: S.R. 1974/252

Amendment No. 2: S.R. 1974/274

Amendment No. 3: S.R. 1974/325

Amendment No. 4: S.R. 1975/126

Amendment No. 5: (*Revoked by S.R. 1976/7*)

Amendment No. 6: S.R. 1976/5

Amendment No. 7: S.R. 1976/7

"PART IIIA

"REDUNDANCY

"45A. **Interpretation**—In this Part of these regulations, unless the context otherwise requires,—

"Employer" includes an employing authority within the meaning of Part III of these regulations:

"Ordinary pay" has the meaning assigned to it by the Annual Holidays Act 1944:

"Redundant employee" means a worker or State employee whose employment is terminated by his employer if that action of the employer is attributable, wholly or mainly, to the fact that the position filled by that worker or employee has or will become superfluous to the needs of the employer; and "redundant" and "redundancy" have corresponding meanings:

"State employee" has the meaning ascribed to that term in Part III of these regulations.

"45B. **Redundancy pay**—(1) No employer shall pay any sum to any redundant employee by way of compensation for redundancy unless—

"(a) The payment of that sum is in accordance with the express provisions of an instrument, being provisions that—

"(i) Were in force immediately before the commencement of this Part of these regulations and are still in force in the same terms at the time when the payment becomes due; or

"(ii) Apply to an employer as a party to the Severance Payments Agreement made between the New Zealand Master Builders' Federation Incorporated and the New Zealand Federation of Labour and dated the 24th day of March 1976, irrespective of whether the notice or agreement which makes the said Severance Payments Agreement applicable to the employer was signed or entered into before or after the commencement of this Part of these regulations; or

"(iii) Provide for payment of a sum not greater than that permissible under paragraph (b) of this subclause and are not otherwise more favourable to the employee than those applying under that paragraph or under subclause (2) of this regulation; or

"(iv) Have been specifically approved in accordance with regulation 45c of these regulations and are in force at the time when the payment becomes due; or

"(b) The sum so paid to the redundant employee does not exceed 2 percent of the total of all ordinary pay derived by him under his contract of employment with the employer during the 12 months immediately preceding the date on which the employee is given notice of his redundancy multiplied by 20 or by the number of years immediately preceding that date (including, as proportionate parts of years, whole months) during which he has been in the continuous employment of the employer, whichever number is the less.

“(2) No redundant employee shall qualify for a payment in terms of paragraph (b) of subclause (1) of this regulation if he has had less than 12 months continuous employment with the employer immediately before the date on which he is given notice of his redundancy.

“(3) For the purposes of this regulation, any sum which is paid by an employer to a redundant employee in lieu of notice terminating the employment of that employee and which exceeds the amount of the wages payable in respect of the ordinary period of notice specified in the instrument that governs that employee’s conditions of employment shall, to the extent that it so exceeds that amount, be deemed to be a payment by way of compensation for redundancy.

“45c. **Approval of redundancy provisions**—(1) Where any party to an instrument, or to an agreement reached under section 16 of the Agricultural Workers Act 1962, desires to have included in that instrument, or in any Order in Council giving effect to any such agreement, provisions relating to the making of payments to redundant employees by way of compensation for redundancy, being provisions which provide for the payment of a sum that exceeds or is likely to exceed that permissible under paragraph (b) of regulation 45B (1) of these regulations or which are otherwise more favourable to redundant employees than those applying under that paragraph or under subclause (2) of regulation 45B of these regulations, the Industrial Commission may, on the application of that party, approve the inclusion of those provisions in the instrument or in any such Order in Council if it is satisfied that there are exceptional circumstances that render the sum or conditions provided for under the said paragraph or subclause clearly inadequate or inappropriate in the particular case.

“(2) The Industrial Commission may approve the inclusion of the provisions with or without amendment, and either conditionally or unconditionally, but nothing in subclauses (7) to (9) of regulation 7 of these regulations shall apply in respect of any approval given by the Commission pursuant to this regulation.

“(3) In considering any application for approval under subclause (1) of this regulation, the Industrial Commission shall not be obliged to regard any existing decision or existing provision or existing agreement relating to redundancy as a precedent.

“(4) The State Services Tribunal, the Waterfront Industry Tribunal, and the Aircrew Industrial Tribunal may in respect of groups of employees whose conditions of employment are governed by instruments coming within their respective jurisdictions exercise, subject to subclauses (2) and (3) of this regulation, the powers conferred on the Industrial Commission by subclause (1) of this regulation.

“(5) Where provisions are approved under this regulation they—

“(a) May be included in the appropriate instrument or Order in Council and in any substituted instrument or Order in Council; and

“(b) Shall, notwithstanding anything in regulation 12 or regulation 41 of these regulations, have effect according to their tenor even though they are expressed to continue in force for a period of less than 12 months.

“45D. **This Part to prevail**—Payments that are permissible under this Part of these regulations may be made notwithstanding the provisions of the other Parts of these regulations.

“45E. **Expiry**—This Part of these regulations shall continue in force until the 31st day of December 1977, and shall then expire.”

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Wage Adjustment Regulations 1974.

Regulation 2 applies Part III of the principal regulations (which relates to the rates of remuneration of State employees) to the rates of remuneration payable to persons employed by the Broadcasting Council of New Zealand as members of the Symphony Orchestra. This change brings those rates of remuneration within the jurisdiction of the State Services Tribunal.

Regulation 3 inserts a new Part IIIA in the principal regulations. This new Part, which expires on 31 December 1977, limits the amounts that may be paid to redundant employees by way of compensation for redundancy to—

- (a) Amounts that may be paid under existing instruments (including the existing agreement relating to the building industry):
- (b) Amounts paid pursuant to provisions expressly approved in exceptional circumstances for inclusion in instruments by the Industrial Commission, the State Services Tribunal, the Waterfront Industry Tribunal, or the Aircrew Industrial Tribunal:
- (c) Two percent of the total of the employee's ordinary pay during the 12 months immediately preceding the date on which he is given notice of his redundancy multiplied by the number of years (not exceeding 20) during which the employee has been in the continuous service of the employer. To qualify for a payment an employee must have had at least 12 months continuous service with the employer immediately before the date on which the employee is given notice of his redundancy.

Provisions which provide for a payment that is or is likely to be greater than that set out in (c) above or which are otherwise more favourable to employees may be approved for inclusion in an instrument only if the relevant Commission or Tribunal is satisfied that there are exceptional circumstances that render the sum or conditions provided in (c) above clearly inadequate or inappropriate in the particular case.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 12 April 1976.

These regulations are administered in the Department of Labour.