



Recognised Seasonal Employer (RSE) policy: Stakeholder update

Executive Summary

- 1 One year since RSE policy was introduced, it is on track to achieve its aims. Over 7,000 RSE workers have been approved, seasonal labour needs are being met, and many RSE employers are reporting benefits from a predictable supply of workers. Some issues have arisen, however, regarding adjusting to seasonal variations, provision of pastoral care, hours of work and productivity of workers. Problems can be expected to reduce over time as employers become more used to operating under RSE and workers become more familiar with working in New Zealand. The Department will seek to work with industry, Pacific States and other stakeholders such as the CTU to focus on the following priority improvement areas:
 - assisting employers to strengthen pastoral care
 - strengthening the implementation of the RSE
 - introducing more flexibility for workers to move between RSEs
 - investigating the merits of establishing Pacific Liaison Officers
 - investigating options for improving the induction and training of workers
 - investigating issues around health costs for RSE workers.
- 2 Challenges and opportunities include a softening New Zealand economy, Australia's adoption of an RSE-type policy, more experienced workers and Pacific source nations, more Small-Medium Enterprises entering the scheme, and Transitional RSE policy being phased out.

The numbers

- 3 As at 21 August 2008:
 - 118 New Zealand employers had obtained RSE status and a further 8 applications were pending
 - 229 Agreement to Recruit (ATR) applications had been approved, involving a possible total of 7,284 workers
 - 4,638 RSE workers in total had actually come to New Zealand and 2,287 of these workers were currently in the country.
 - around 78% of workers were from the Pacific.
- 4 Table One below provides a break-down of the nationality of RSE workers.

Table One: Nationality of RSE Workers

Country	Total	%
Kiribati	70	1.5
Samoa	657	14.2
Solomon Islands	238	5.1
Tonga	832	18
Tuvalu	99	2.2
Vanuatu	1707	37
Other	998	22
Total	4601	

Issues arising in the first year, and next steps

- 5 RSEs' pastoral care requirements include ensuring availability of suitable accommodation, transportation, personal banking, and opportunities for recreation and religious observance. To assess this aspect of RSE policy, the Department audited pastoral care arrangements and workers' earnings. Results suggest employers have mostly managed pastoral care reasonably well. Where problems have arisen, they have generally been around the cost and quality of accommodation, hours of work and productivity, induction and training and pay/deductions.

Accommodation

- 6 The audit found that the standard of accommodation provided is generally acceptable. Some RSEs have struggled to source enough accommodation, particularly in areas where plantings have expanded rapidly. In this environment, shared accommodation for large groups is commonplace (it may be the preference of at least some RSE workers).
- 7 There have been cases where per person costs have appeared unreasonable due to the number of people in the facility. There have also been cases of overcrowding. Some workers have also complained about the standard of accommodation. For example, while caravans in summer may work well, they may not be suitable in winter. The Department will be taking particular care to ensure accommodation provided is acceptable, and that the cost is reasonable.

Hours of Work and Productivity

- 8 There is scope for RSE workers to make significant net earnings. The extent of this benefit will depend on their upfront costs, duration of employment, hours of work and productivity. RSE policy currently sets a minimum requirement of 30 hours per week on average (with an absolute minimum of 240 hours). The audit of wages and hours of work found that this minimum was met. Average weekly hours worked ranged from a minimum of 36 to a maximum of 57 per week.
- 9 Results from the audit of wages and earnings from 12 RSEs, covering 267 workers from September 2007 to July 2008, shows an average net return per worker of between \$2,871 and \$11,863 (based on averages across the 12 RSEs audited). Table Two shows the distribution of the net return across the 267 individual workers included in the audit.

Table Two: Distribution of Average Net Return

First quartile – 25%	\$3,695.92
Median - 50%	\$5,807.81
Third quartile - 75%	\$8,829.23

- 10 The ability to make a net return, however, is not guaranteed. Issues around insufficient hours of work emerged in the Bay of Plenty amongst some employers. Some RSEs may have over-estimated the number of workers required and seasonal variations may have exacerbated the problem. The Department notes that the 30 hour weekly minimum is not a target. Employers who are unable to offer a substantial savings opportunity to their workers are not meeting the aims of RSE policy.
- 11 Currently, RSE policy requires that the employer provides direct supervision in the field for its RSE workers. This is to ensure that RSEs take full responsibility for employment and health and safety matters, and do not attempt to contract out of their obligations.

- 12 This rule will be amended so that it does not apply in cases where RSE workers temporarily move to the site of another RSE. In this case, the second (recipient) RSE would be able to provide the onsite supervision. The first RSE would remain the employer of record and would still be required to ensure that all policy requirements are met, including those relating to pay. Workers would need to agree to any changes to their terms and conditions that result from temporarily moving between RSEs.
- 13 Policy will also be amended so that workers can change their RSE employers in New Zealand so long as this is consistent with the policy intent, rather than just in exceptional circumstances. Workers' movements between employers will be carefully monitored, to ensure that they are genuinely voluntary and in the interests of all parties involved. These policy changes will come into effect in December 2008.

Training and Induction

- 14 Workers with no experience of New Zealand are likely to have a range of immediate needs on arrival. The ideal induction process would cover all aspects of living and working in the local community as well as employer-specific training. The Department's pastoral care audit found that employers' induction programmes typically averaged between 0.5 and two days.
- 15 There are also potential impacts on local communities from an influx of migrant workers. The provision of more comprehensive induction/training programmes may assist workers to settle into working and living in New Zealand. It may also enable employees to come up to speed more quickly in terms of the volume and quality of their work – this has been an issue for some employers.
- 16 The Department will investigate options for enhancing the induction and training provided to RSE workers, especially those workers new to New Zealand.

Pay and deductions

- 17 The conclusions of the audit of average hours, deductions/costs, and wages are included in the Appendix to this document.
- 18 Issues around rates of pay, deductions and banking arrangements have created problems for some workers and employers. The use of piece rates for picking and pruning can lead to misunderstandings and resentment when workers are unfamiliar with this system, particularly if they begin on hourly rates and then move to piece rates. Workers can be unhappy when piece rates are changed, or when pay slips fail to clearly differentiate between piece work on one hand and hourly rates on the other.
- 19 The Department will work closely with employers to ensure they fully inform their workers about their entitlements and pay arrangements. It is important to ensure workers' expectations match reality especially in relation to net earnings. The Department is working with the kick start states to improve the pre-departure orientation information provided to RSE workers. More emphasis will also be placed on explaining payment and banking systems in the pre-departure briefings provided to kick start states.
- 20 A number of complaints have been received about deductions and other payments made by workers. Some workers have felt that they are not getting value for the amount deducted, and that the reason for the deductions/payments is not transparent. The Department treats this issue very seriously. It is mandatory that all deductions/payments are transparent, agreed in advance, are genuine and reasonable, and, in the case of deductions, do not take pay below the minimum wage (although airfares are allowed to do this).

- 21 Employers need to provide more information about what payments are being made, and why. They also need to ensure that any such arrangements have the workers' explicit consent (workers can withdraw consent for payments). This will be an area of focus for labour inspectors. RSE policy will also be amended to enable the Department to request employers to provide full disclosure of any payments for airfares, accommodation, and other pastoral care expenses made by RSE workers. This will ensure we can collect a complete picture of costs and net benefits for workers. This policy change will come into effect in December 2008.

Health Issues

- 22 To date, a few RSE workers have experienced significant health issues in New Zealand. Workers are eligible for ACC (in the case of accidents) but are not eligible for publicly-funded health care (in the case of sickness). This has been an area of concern to Pacific states. Employers are encouraged to offer health insurance to their workers. The Department's audit found that all of the eight RSEs audited had provided access to doctors and the majority had arranged health insurance at a premium of around \$11 per week.
- 23 It is important that the costs of accessing health care in New Zealand are not prohibitive, so that any medical conditions arising here can be treated early. One means of achieving this could be through compulsory health insurance. The Department will work with industry and Pacific states to investigate issues around the provision of health care for Pacific workers.

Further improving Pastoral Care

- 24 Further actions to improve pastoral care provision include:
- enhancing pastoral care plans
 - disseminating good practice information
 - investigating the need for Pacific Liaison Officers.

Enhancing Pastoral Care Plans

- 25 Employers are required to show how they plan to address the following elements of pastoral care as part of the ATR process: transportation; induction; accommodation; access to personal banking; protective equipment; onsite facilities; necessary language translation; and opportunity for recreation and religious observance. Experience suggests there are additional pastoral care challenges that employers need to consider and prepare for. These include:
- supervision, care and management of workers and cross-cultural communication at work and outside of work
 - management of periods where work is reduced – including aspects such as the impact on workers' overall net income, budgeting to cover ongoing costs and out-of-work activities
 - provision of issue resolution processes.
- 26 The pastoral care requirements of RSE employers could be expanded to include the above elements. Cabinet has asked officials to consult with industry, the Council of Trade Unions and Pacific states and report back to the Minister of Immigration on this.

Disseminating Good Practice Information

- 27 To enable employers to better plan and manage pastoral care provision, the Department is developing an employer's guide in collaboration with industry. Building on lessons learnt, this will cover key pastoral care components set out in policy, providing examples of issues that emerged and solutions that worked.

Liaison Officers

- 28 Effective communication between workers and employers is critical to productive workplaces. Liaison Officers could serve to bridge communication difficulties between workers and employers and help employers to better understand and relate to their workers. They could have a role in ensuring workers understand the terms and conditions of their employment and in managing workers' expectations. Liaison Officers could also assist with orientation and induction.
- 29 A key benefit would be in providing assistance when things go wrong. Some workers have reported they feel uncomfortable raising issues with employers or other New Zealanders. Liaison Officers could facilitate early resolution of issues. Canada, with a somewhat similar scheme in operation for over 40 years, has established similar positions. Officials will undertake further work, in consultation with industry and Pacific states, on the merits of establishing Pacific Liaison Officers.

Facilitative Arrangements with Kick-Start States

- 30 The facilitative arrangements with Kiribati, Samoa, Tonga, Tuvalu and Vanuatu are documented in formal Inter-Agency Understandings (IAUs). The arrangements are evolving as experience in RSE is gained. The IAUs are currently being reviewed by the Department and the kick start states. The Prime Minister has recently announced that kick start status will be extended to the Solomon Islands from 2009.

Supporting Pacific Development

- 31 The following initiatives to enhance the development benefits that can flow from RSE are underway: a cross-government project to reduce the cost of remittances; a mission of RSE employers interested in investing in Vanuatu is planned for August; and NZAID is exploring support for targeted training for RSE workers, focusing first on basic, rights-based training (literacy and numeracy).

Research and evaluation

- 32 The Department led evaluation of aspects of the RSE policy is currently underway through externally contracted independent researchers. The focus of this evaluation is on describing and assessing the implementation of RSE (including the TRSE), the management of the risks and short-term outcomes to help inform a report back to Cabinet in October 2009.
- 33 Perspectives from a wide range of participants and stakeholders are being gathered through research underway. This includes a programme of interviews, surveys and data analysis, which commenced in June 2008 and is due to be completed late September 2008. A second programme of fieldwork may take place over May-June 2009. This programme is in addition to the Department supported outcomes evaluation being led by the World Bank and Waikato University, and the audit being undertaken by labour inspectors.

Impending challenges and opportunities

Softening New Zealand economy

- 34 There may be increased numbers of available New Zealanders in coming months. The Department and Work and Income will need to be very careful in assessing ATR applications.
- 35 In some cases the numbers of RSE workers entering an area may be reduced from last year's level. RSEs need to work very closely with Work and Income to ensure that their ATR applications are realistic and reflect a changing economic environment.

Australia's adoption of an RSE-type policy

- 36 Australia has announced a policy that closely mirrors RSE. The initial source nations are Tonga, Kiribati and Vanuatu and then Papua New Guinea. The initial cap will be 2,500 workers over three years: we understand that a pilot of around 100 workers is to be in place by Christmas. Australia has committed to supporting the work New Zealand has put into establishing good processes with kick start countries. Nonetheless, RSEs will need to be aware that there is growing competition for Pacific workers.

More experienced workers and Pacific source nations

- 37 With experience, workers will become more productive and better informed. Productive workers are worth more to employers. Workers will be better informed about work opportunities and be able to compare employment opportunities. Good faith collective bargaining is a fundamental right of all workers in New Zealand and RSEs may need to prepare for this.

More Small-Medium Enterprises (SMEs)

- 38 Most of the big employers are now on board and increasing numbers of SMEs are now looking to use RSE policy. They may do this individually, through cooperatives or through RSE labour contractors. RSE policy can present additional challenges for SMEs. The Department is committed to facilitating use of the policy for these employers and the labour inspectors will remain integral to providing the necessary assistance, along with the Transitional RSE facilitation function being carried out by Horticulture NZ.

Transitional RSE (TRSE) policy being phased out

- 39 The TRSE policy expires in September 2009. As at 23 August 2008 there were 282 TRSE employers and 1,464 TRSE work permits issued. These employers will need to gain RSE status or explore other means of accessing seasonal workers. This could involve accessing RSE labour through another employer or a cooperative, or using other immigration policies to source staff (such as working holidaymakers or visitors with permission to work).

Conclusion

- 40 A continuous improvement approach is being applied to the ongoing implementation of RSE policy. Key areas of focus for year two are set out below.

Table Three: RSE Continuous Improvement – Next Steps

Employers

The Department will continue to engage with employers to identify practice improvements by both the department and employers, which will improve the operation of RSE policy. This will include:

- continuing to work with employers to build their pastoral care capacity
- disseminating good practice information, and
- ensuring compliance with policy requirements.

Pacific states

The focus in year two will be on bedding in existing arrangements and building capacity within the kick start states to ensure long-term sustainability. Actions underway include:

- improving pre-departure orientation
- reviewing Inter-Agency Understandings, and
- exploring delivery of targeted training for workers, funded by NZAID.

The Department of Labour

RSE policy has placed big demands on the Department. The focus in year two will be on the way we implement RSE. The research programme into RSE and the facilitative functions will also report in 2009.

Appendix - Audit of Average Hours, Deductions/Costs and Wages

An audit of some RSEs was undertaken to provide an overview of the average hours worked, the deductions/costs that workers incurred here and the average balance that they were left with at the end of the period. We covered most RSEs who had workers complete work and leave New Zealand as this was likely to provide complete information and yield reliable estimates. As a result this analysis primarily covers a good part of the summer/autumn period when the weather and work availability was more settled. We would expect winter results to be different for some workers.

An audit of 12 RSEs that employed 267 workers over Sept 2007 to July 2007¹ showed that the average weeks worked ranged from 9.94 to 28.55 weeks with an average of 17 weeks (Refer Table 1). These calculations are based on the averages across the 12 RSE employers. The average hours worked ranged from 418 to 1494 with an average of 735 hours. The weekly hours worked showed a minimum of 36.37 hours going up to a maximum of 57 hours. This analysis shows that the policy requirement of 30 hours per week on average and 240 hours at the minimum was more than adequately met.

Table1: Average hours, deductions/costs and balance

	Lowest AVG	Highest AVG	Average
AVG weeks worked	9.94	28.55	17.00
AVG hours worked in total	417.86	1493.64	735.03
AVG hours worked per week	35.35	56.80	43.31
AVG one-off Airfare payment *	\$225.00	\$1,330.00	\$498.23
AVG weekly Accommodation	\$47.35	\$117.50	\$91.61
AVG weekly Food	\$10.00	\$55.00	\$40.84
AVG weekly Health insurance	\$6.00	\$11.75	\$10.14
AVG Gross Pay	\$6,500.82	\$17,398.17	\$10,118.82
AVG Holiday pay	\$520.06	\$1,333.44	\$785.63
AVG PAYE	\$1,493.83	\$3,531.95	\$2,224.76
AVG Balance	\$2,871.38	\$11,863.77	\$5,764.99

*Note: 50% payment of airfare by worker varies given the different distances involved.

The range of average weekly deductions or costs for accommodation, food, transport to and from work and health insurance confirmed the range of weekly costs estimated from the audit on pastoral care provision. These costs were found reasonable by Labour Inspectors while some workers perceived accommodation costs to be expensive and could not understand why they had to pay for the days they did not have work.

¹ These workers were here over this time though individual workers may have different start and end dates.

The balance left was calculated after subtracting PAYE and deductions/costs for airfare, food, accommodation, transport and health insurance from the average gross pay and holiday pay. This analysis provides preliminary evidence on the level of known potential savings. This showed that at the minimum a worker potentially had \$2,871 left after taxes and deductions/costs and at the higher end made \$11,863. A further analysis of the distribution of balance left across the 267 individual workers (Table 2) was as follows:

Table 2 Distribution of balance left

First quartile – 25%	\$3,695.92
Median - 50%	\$5,807.81
Third quartile - 75%	\$8,829.23