



COVERSHEET

Minister	Hon Michael Wood	Portfolio	Immigration
Title of Cabinet paper	Indexing the Recognised Seasonal Employer Scheme Wage Threshold to the New Zealand Minimum Wage from 1 October 2023	Date to be published	5 July 2023

List of documents that have been proactively released

Date	Title	Author
March 2023	Indexing the Recognised Seasonal Employer Scheme Wage Threshold to the New Zealand Minimum Wage from 1 October 2023	Office of the Minister of Immigration
27 March 2023	Indexing the Recognised Seasonal Employer Scheme Wage Threshold to the New Zealand Minimum Wage from 1 October 2023 CAB-23-MIN-0102 Minute	Cabinet Office

Information redacted

NO

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In Confidence

Office of the Minister of Immigration

Cabinet

Indexing the Recognised Seasonal Employer scheme wage threshold to the New Zealand minimum wage from 1 October 2023

Proposal

- 1 This paper notes my intention to index the Recognised Seasonal Employer (RSE) wage threshold to 10% above the New Zealand minimum wage, while delaying implementation of this change from 1 April 2023 to 1 October 2023 in recognition of the impacts of Cyclone Gabrielle on some RSE employers.

Relation to government priorities

- 2 The benefits to RSE workers and the Pacific obtained through the RSE scheme is an important component of our relationship with the Pacific. This change will ensure that from 1 October RSE workers will receive a fairer share of the benefits from their participation in the RSE scheme. Delaying the implementation of the proposal balances the longer-term wellbeing of RSE workers in the scheme, with the needs of RSE employers following Cyclone Gabrielle.

Executive Summary

- 3 I intend to index the RSE wage threshold to the New Zealand minimum wage requiring 10 per cent above. This is to ensure RSE workers receive a fairer share of the benefits from their participation in the RSE scheme, and to maintain upward wage pressure on the horticulture and viticulture (hort/vit) industry.
- 4 This is in line with previous Government decisions. Hort/vit industry leaders have been consulted.
- 5 However, following discussions with hort/vit industry leaders, I believe that delaying implementation from 1 April 2023 to 1 October 2023 achieves the intended outcome of indexation, while taking appropriate account of the impact of Cyclone Gabrielle on the industry and the significant costs many employers will be facing as a result.
- 6 The current wage threshold for RSE workers is \$22.10. On 1 April 2023, the New Zealand minimum wage will increase to \$22.70, meaning the wages of RSE workers will also lift to this amount. Indexing the RSE wage threshold to the New Zealand minimum wage requiring 10 per cent above will take the RSE wage threshold to \$24.97 from 1 October 2023. It will then increase in subsequent years in line with minimum wage increases.

I intend to index the RSE wage threshold to 10 per cent above the New Zealand minimum wage

- 7 I have determined to index the Recognised Seasonal Employer (RSE) wage threshold to the New Zealand minimum wage requiring 10 per cent above. This is to ensure RSE workers receive a fairer share of the benefits from their participation in the RSE scheme, acknowledging the low bargaining power of RSE workers relative to their employers. It also maintains upward wage pressure on the horticulture and viticulture (hort/vit) industry, providing incentives for the industry to be continually making efforts to attract and recruit New Zealanders, and to invest in technology before they recruit RSE workers.
- 8 I expect to bring policy proposals on the wider RSE policy review to Cabinet in June. The decision on indexation is intended to provide certainty of a concrete benefit to RSE workers in advance of the policy review.

This is in line with previous Government decisions

- 9 In September 2021, Cabinet increased the wage threshold for RSE workers to \$22.10, which was approximately equivalent to the New Zealand minimum wage plus 10 per cent at the time. At that time the previous Minister of Immigration indicated to Cabinet that the intention was to index the RSE wage threshold to the New Zealand minimum wage [CBC-21-SUB-0089 refers], although Cabinet was not asked to formally agree to this.
- 10 In September 2022, after consultation with the industry, I agreed to proceed with the indexation from 1 April 2023 to provide a benefit to RSE workers in the short-term in advance of policy review decisions. The Ministers of Agriculture and Social Development and Employment were consulted and confirmed their support for this decision. However, the decision was not announced by me or certified in immigration instructions.

Request from the hort/vit industry to delay implementation

- 11 Industry leaders have subsequently requested that the indexation of the RSE wage threshold be reconsidered under the policy review, or its implementation otherwise delayed. Cyclone Gabrielle subsequently resulted in significant loss for the hort/vit industry, particularly in regions that have a high proportion of RSE employers and workers. In response, I considered advice from officials regarding the timing for implementation.

Impacts of Cyclone Gabrielle on the industry

- 12 In relation to production loss in cyclone-affected regions, the Ministry for Primary Industries estimate:
 - 12.1 Apples and pears: 30-40 per cent
 - 12.2 Wine: 20-25 per cent
 - 12.3 Kiwifruit: 60 per cent in the Hawke's Bay, 25 per cent in Gisborne

12.4 Vegetables: 50-70 per cent in onions, 20-40 per cent in squash

Delaying implementation to 1 October 2023 provides appropriate mitigation

- 13 I consider that delaying implementation to 1 October 2023 achieves the intended outcome of indexation, while taking appropriate account of the impact of the cyclone on the industry.
- 14 A six-month delay provides the benefit of a delayed increase for employers, while also minimising the administrative impact of needing to update contracts in quick succession if a shorter delay were to be agreed. July to October is a relatively quiet period for the RSE season before the busier period over summer. There will be fewer RSE workers in the country between July - October 2023 that would need to agree to updated employment agreements. 1 April is the peak of the picking season for apples and kiwifruit and the point at which the greatest number of RSE workers will be onshore.
- 15 The prospective indexing of the RSE wage threshold to New Zealand wage from 1 April 2023 was communicated to hort/vit industry leaders by officials. However, this decision has not been formally announced by me or implemented in immigration instructions.
- 16 Following industry leaders' request to reconsider or otherwise delay the implementation, I indicated that I would reconsider the implementation of the decision. While RSE employers will need to update contracts to increase minimum wages in line with the New Zealand minimum wage threshold from 1 April 2023, they have been awaiting the Government's formal decision on the implication for the RSE wage threshold.
- 17 The decision to index the RSE minimum wage to the New Zealand minimum wage is in line with previous Government decisions, and therefore does not need to be considered again under the policy review. A delayed implementation, however, takes account of the impact of Cyclone Gabrielle, providing some reprieve to the sector while recovery efforts are underway.
- 18 The current RSE wage threshold is \$22.10. On 1 April 2023, the New Zealand minimum wage will increase to \$22.70, meaning the minimum wages of RSE workers will also lift to this amount. Indexing the RSE wage threshold to the New Zealand minimum wage requiring 10 per cent above will take the RSE minimum wage to \$24.97 from 1 October 2023. Indexation will mean that the RSE wage threshold will move in line with annual increases to the New Zealand minimum wage in forthcoming years.

Financial Implications

- 19 There are no direct financial implications for Government. The proposals in this paper will result in an increase to the RSE wage threshold from 1 October 2023, which will have a financial implication for RSE employers and workers.

Legislative Implications

- 20 There are no legislative implications. However, the proposals in this paper require amendments to immigration instructions. Immigration instructions are the rules and criteria for the grant of visas and entry permission to New Zealand, and the conditions of visas. Immigration instructions are set out in the Immigration New Zealand Operational Manual. Section 22 of the Immigration Act 2009 authorises the Minister of Immigration to certify immigration instructions.
- 21 Following consideration of this paper I will certify new immigration instructions.

Impact Analysis

Regulatory Impact Statement

- 22 As no changes to legislation are required for this policy change, the regulatory impact requirements do not apply to these proposals.

Climate Implications of Policy Assessment

- 23 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

- 24 This proposal will benefit RSE workers through the increase to their minimum wage threshold from 1 October 2023, and certainty of this increase in advance of policy review decisions in June 2023. The delay to implementation will provide some reprieve to the sector while recovery efforts are underway.

Human Rights

- 25 While the Immigration Act 2009 recognises that immigration matters inherently involve different treatment on the basis of personal characteristics, immigration policy development seeks to ensure that any changes are necessary and proportionate. The Ministry of Business, Innovation and Employment considers that the proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 26 This paper was prepared by the Ministry of Business, Innovation and Employment. The Ministries of Social Development, Foreign Affairs and Trade, Primary Industries, Pacific Peoples, Housing and Urban Development were consulted in August 2022 on the proposal to index the RSE wage threshold to the New Zealand minimum wage.
- 27 In September 2022, the hort/vit industry leaders were consulted on the Government's proposal to index the RSE wage threshold to New Zealand minimum wage plus 10 per cent. While not supportive of the change, the industry leaders advised the Government that it preferred a delay (at that point) to 1 April 2023 when the New

Zealand minimum wage rate was due to increase, so that employers would only need to implement one increase. They have subsequently requested a further delay or reconsideration of the proposed increase.

- 28 Industry leaders and members of the RSE tripartite group (comprising industry, unions, inter-agency officials and Pacific representatives) were advised earlier this year of my intention to increase the RSE minimum wage threshold and index it on 1 April.
- 29 The hort/vit industry is awaiting communications from the Government on the required minimum wage for RSE workers, and have been advised that the decision will be announced in the week of 27 March.

Communications

- 30 Once Cabinet has noted the proposals in this paper, communications material will be developed. The Immigration New Zealand website will be updated, and updated immigration instructions will be published as soon as practicable.
- 31 Officials will communicate these changes to hort/vit industry leaders to enable them to inform their members of the RSE minimum wage requirements from 1 April and 1 October 2023.

Proactive Release

- 32 This paper will be proactively released in line with the Cabinet Office circular Proactive Release of Cabinet Material: Updated Requirements [CO (18) 4].

Recommendations

The Minister of Immigration recommends that Cabinet:

- 1 **note** that in September 2021, Cabinet increased the wage threshold for all RSE workers to \$22.10, and that the intention to index the RSE wage threshold to New Zealand minimum wage was also signalled to Cabinet at that time [CBC-21-SUB-0089 refers]
- 2 **note** that the Ministers of Agriculture and Social Development and Employment were consulted and confirmed their support for indexing the RSE wage threshold to 10 per cent above the New Zealand minimum wage from 1 April 2023
- 3 **note** that the hort/vit sector was consulted on the proposal to index the RSE wage threshold
- 4 **note** that the hort/vit sector has requested a delay to the implementation of the proposed indexation
- 5 **note** that Cyclone Gabrielle resulted in significant loss for the hort/vit industry, particularly in regions with a high proportion of RSE employers and workers

I N C O N F I D E N C E

- 6 **note** that delaying implementation to 1 October 2023 achieves the intended outcome of the indexation while recognising the impact of Cyclone Gabrielle on the hort/vit industry
- 7 **note** that under the Immigration Act 2009, this change can be made through immigration instructions
- 8 **note** that I have determined to index the RSE wage threshold requiring 10 per cent above the New Zealand minimum wage, and moving in line with annual minimum wage increases, from 1 October 2023.

Authorised for lodgement

Hon Michael Wood

Minister of Immigration