



## COVERSHEET

<b>Minister</b>	Hon Andrew Little	<b>Portfolio</b>	Immigration
<b>Title of Cabinet paper</b>	Outcomes of the Recognised Seasonal Employer policy review	<b>Date to be published</b>	24 October 2023

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
14/09/23	Outcomes of the Recognised Seasonal Employer policy review	Office of the Minister of Immigration
18/09/23	CAB-23-MIN-0442 Minute	Cabinet Office
14/08/23	Recognised Seasonal Employer policy review, Summary of Submissions	MBIE
14/09/23	Diagram of proposed RSE system	MBIE

### Information redacted

**YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Information has been redacted on the following grounds:

*Confidential advice to Government*

*International relations*

*Privacy of natural persons*



# Cabinet

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### Outcomes of the Recognised Seasonal Employer Policy Review

**Portfolio**                      **Immigration**

On 18 September 2023, Cabinet:

- 1        **noted** that in 2018, the Cabinet Economic Development Committee agreed to a review of Pacific migration policies [DEV-18-MIN-0101];
- 2        **noted** that the Recognised Seasonal Employer (RSE) policy review has been completed, and that the outcomes of the review include the proposals set out below;

#### Cap

- 3        **noted** the proposal for the RSE cap to be set on a three-yearly basis;
- 4        **noted** the proposal for the RSE cap to be set on a regional basis according to the unmet demand for labour identified by a data-driven supply/demand model, and that a process be established to develop the model and ensure its output is robust before recommendations are submitted to the Minister of Immigration for approval;

#### Allocation

- 5        **noted** the proposal for the allocation process to employers to be done regionally and to incorporate performance-based criteria to enable positive employer behaviour to be encouraged and for certain breaches of the scheme to be penalised;
- 6        **noted** the proposal for the number of RSE workers allocated to individual employers to be set on a three-yearly basis as far as possible, while providing for performance-based criteria and allowances for new entrants;
- 7        **noted** the proposal for the employer accreditation process to be aligned to the three-year cap setting and allocation process, to create a single touch point for employers and realise
- 8        **noted** that a framework for the allocation process, including performance-based criteria, should be designed with key stakeholders, incorporating the design elements regarding regional allocation and provision for new entrants;

administrative efficiencies;

## Labour Market Planning

- 9 **noted** the proposal to give effect to regional labour market conditions by using data-driven RSE cap and allocation process to ensure New Zealanders are not displaced by incoming RSE workers within specific regions;
- 10 **noted** the proposal for the development of a labour market testing system that is aligned with the proposed RSE cap, allocation, and compliance three-year cycle, and that clarifies an employer's obligations to three features:
- 10.1 a three-yearly labour market plan, with employer declarations in years two and three to verify the plan is being followed;
  - 10.2 an ongoing obligation for employers to advertise to the public when roles are available, and to engage with the Ministry of Social Development on available New Zealanders;
  - 10.3 the integration of labour market plan compliance audits into the wider compliance regime, using a risk-based audit regime;
- 11 **noted** the proposal for a performance-based incentives regime, to be worked on with stakeholders, includes employment practices that improve the employment outcomes of New Zealanders; for example, provision of training, the creation of high-value permanent roles, and pay and conditions that match RSE workers, as well as potentially other areas that raise the performance of the sector;

## Compliance

- 12 **noted** the proposal to establish more clearly what constitutes a breach of RSE requirements 'other than of a minor nature', including that accreditation under the RSE scheme will consider whether employers are on the stand-down lists maintained by Immigration New Zealand or Employment New Zealand, and provide clearly that some breaches such as providing inaccurate information would result in a sanction being applied;
- 13 **noted** the proposal to establish a scale of breaches of RSE requirements not already covered by employment of immigration legislation leading to a sanction to be developed based on: level of harm/impact on individuals; whether breach was intentional / negligent / inadvertent; type of behaviour / seriousness of breach; who made gains or losses and if any mitigation occurs;
- 14 **noted** the proposal to establish a clear process for how potential breaches are addressed to develop a clear allocation of responsibilities for gathering evidence, recommendations on action and decision-making;
- 15 **noted** the proposal to increase RSE worker voice and agency in understanding rights, raising concerns and getting resolution, for example, through the following:
- 15.1 ensuring that RSE workers are aware that they are entitled to join a union;
  - 15.2 if RSE scheme issues arise and cannot be resolved, RSE employers must alert the Ministry of Business, Innovation and Employment (MBIE) and any other relevant agency; any failure to do so would be considered in the RSE accreditation or allocation decisions;
  - 15.3 investigate the provision of a pilot of independent representation for RSE workers

(based on the work undertaken by the Tripartite working group);

- 16 **noted** the proposal (subject to funding through fees or other sources) to develop an enhanced compliance, enforcement and monitoring regime with more resources for MBIE to monitor adherence to RSE scheme rules and identify and address potential breaches;

### Flexibility

- 17 **noted** the proposal for RSE visas to provide for multiple entry each season to enable RSE workers to leave New Zealand for a short period for family emergencies, bereavements and other significant events;
- 18 **noted** the proposal for workers to be enabled to move between RSE employers through a Variation of Conditions rather than the current requirement that a new visa must be issued;
- 19 **noted** the proposal to remove requirements for a new Agreement to Recruit when a worker either changes roles with the same employer, or moves location with the same employer;

### Pastoral care

- 20 **noted** the proposal to update the pastoral care rules to include:
- 20.1 maximum of six days to be worked in any seven-day period, with at least one day off at the worker's choice;
  - 20.2 opportunity for rest;
  - 20.3 facilitate promotion of good health outcomes, through health days, onsite immunisations and provision of healthcare information;
  - 20.4 access to nutritious food at reasonable cost;
  - 20.5 opportunities to upskill;
  - 20.6 access to community and support services;
  - 20.7 clear, transparent information for RSE workers on support available in their own language;
  - 20.8 support to facilitate connection with home country;
  - 20.9 information on employment rights;
  - 20.10 facilitation of Pacific superannuation;
- 21 **noted** the proposal to introduce a requirement for employers to complete pastoral care plans and provide these to MBIE at accreditation with the details of this template to be worked through in discussion with industry bodies, Pacific representatives and RSE workers;
- 22 **noted** the proposal to introduce an in-principle requirement for employers to employ pastoral care workers at a certain number of FTE per worker, with the details to be worked through and agreed by the Minister of Immigration at a later date;
- 23 **noted** the proposal for the inclusion of a requirement for higher pay rates or other incentives for experienced workers and particular roles such as team leaders, supervisors, drivers and pastoral care workers in immigration instructions;

**Health**

- 24 **noted** the proposal for the standard for health insurance to be lifted at minimal cost to the worker, with further details to be worked through with stakeholders;
- 25 **noted** the proposal to require employers to provide health insurance information at the time of the employment offer for RSE workers prior to their leaving the Pacific and as part of employer induction upon arrival;
- 26 **noted** the proposal to remove the HIV screening requirement for applicants;

**Deductions**

- 27 **noted** the proposal for a standardised template deductions form which specifies:
- 27.1 the following set of allowable deductions: accommodation (broken down by rent, power and food), 50 per cent of the international flight, travel to and from a RSE worker's home to the international port of departure, health insurance, visa, food, cash advance, Pacific superannuation, worker's savings account;
  - 27.2 a protected earnings threshold per week which deductions cannot take net weekly income below;
- 28 **noted** the proposal for a cost sharing policy which, along with the above, also specifies:
- 28.1 workers to be given options as to how their deductions will be spread: either over six weeks, over 12 weeks or over another period to be specified by the worker, up until the duration of their employment;
  - 28.2 the RSE employer to cover the domestic leg of travel in New Zealand on arrival and return;
  - 28.3 the RSE worker to cover the travel from their home in the Pacific to the international port of departure from the Pacific to New Zealand, on arrival and return;
  - 28.4 the RSE employers to cover the cost of travel from one employer to the next in the case of a transfer, with the cost sharing arrangement to be determined between them;
  - 28.5 flexible fares to be booked where possible, with any change to the flights at the employer's request (eg. should they wish to alter the contract of employment) to be made at the employer's expense;
  - 28.6 only items included in the standardised deductions form can be deducted for, with the following items to be covered by the employer and not deducted from the worker's pay: personal protective equipment, tools, training, Wi-Fi;

**Accommodation**

- 29 **noted** the proposal to update the accommodation standards to incorporate the Healthy Homes Standards as per the *Residential Tenancies Act 1986*, align with the minimum bedroom size requirements in the *Housing Improvement Regulations 1947* and require Wi-Fi access to be provided to workers free of charge in their accommodation;
- 30 **noted** the proposal to require that workers be provided with a minimum set of details about their accommodation pre-departure, including photos;

## Pacific Outcomes

31 **noted** that officials will progress bilateral conversations with Pacific countries with a view to updating the existing Interagency Understandings governing their engagement with RSE and report back to the Minister of Immigration and Minister of Foreign Affairs;

32 International relations

## Implementation

33 **invited** the Minister of Immigration to report back to Cabinet in early 2024 to seek agreement to final policy decisions on the RSE review, including phasing of implementation and financial implications for government and the industry;

## Cap for 2023/24

34 **agreed**, following the Minister having taken into account representations from the horticulture and viticulture sectors as well as considering the number of RSE workers employed during the last season which was short of the 19,000 cap set in 2022, and having considered the likely impact of the severe weather events affecting Auckland, Tairāwhiti and Hawkes Bay regions earlier in the year, the rising number of working holiday visas currently being issued and indications of a softer labour market generally, to increase the RSE cap to 19,500 places for the 2023/24 season.

Rachel Hayward  
Secretary of the Cabinet