

In Confidence

Office of the Minister of Immigration

Chair, Cabinet Business Committee

Increasing the cap for the Recognised Seasonal Employer scheme

Proposal

- 1 This paper notes the intention of the Minister of Immigration, in consultation with the Minister for Social Development, to increase the cap on the number of temporary visas that can be granted under the Recognised Seasonal Employer (RSE) scheme in a 12 month period by 600 places to 11,100 from the 2017/18 season.

Executive Summary

- 2 In consultation with the Minister for Social Development, I intend to increase the cap on the number of temporary workers that can be granted visas under the RSE scheme in a 12 month period by 600 places to 11,100 from the 2017/18 horticulture and viticulture season.
- 3 The RSE scheme has a cap on the number of visas that can be issued in a 12 month period. The cap number is specified in Immigration instructions, which can be changed by the Minister of Immigration. Previous Ministers of Immigration have traditionally made decisions on the cap jointly with the Minister for Social Development.
- 4 During peak season, RSE workers comprise around 9 per cent of the horticulture and viticulture workforce. The majority of the workforce is made up of New Zealand citizens and permanent residents, followed by working holidaymakers.
- 5 The Minister for Social Development and I consider that the key principles of the RSE scheme are being met and that an increase in the number of RSE workers will provide a reliable source of labour to fill expected shortages in the 2017/18 horticulture and viticulture season. An increase in the cap will support industry growth and regional economic development. The key factors that we have considered are:
 - 5.1 A shortfall of workers in the horticulture and viticulture industry has been forecast for 2017/18;
 - 5.2 RSE employers are demonstrating a commitment to employing New Zealanders;
 - 5.3 There are accommodation pressures in some regions where the RSE scheme operates, but there are processes in place to manage the impact of an increased number of RSE workers;
 - 5.4 RSE employers are demonstrating a commitment to providing pastoral care and acceptable employment conditions; and
 - 5.5 The RSE scheme has positive impacts in Pacific Island countries.

Background

- 6 The Recognised Seasonal Employer (RSE) scheme was established in 2006. It enables employers in the horticulture and viticulture (“seasonal”) sectors who have demonstrated a commitment to providing pastoral care and have sought to employ local workers to hire migrant workers to fill seasonal labour shortages.
- 7 The three key principles underlying the RSE scheme are:
 - 7.1 New Zealanders first: employers should seek to employ local workers first; if they are unable to find New Zealanders, then migrant workers can be employed.
 - 7.2 Recognition of employers: employers must be able to demonstrate that their employment and pastoral care practices are sufficiently high quality for them to be permitted to access the scheme.
 - 7.3 Pacific preference: employers should employ migrant workers from eligible Pacific nations,¹ unless they have an established relationship with workers from other countries and it is not feasible to recruit from eligible nations.
- 8 There are three processes through which adherence to the principles of the scheme is maintained:
 - 8.1 through the annual cap on the number of visas that can be granted to temporary workers in the scheme;
 - 8.2 through the national and regional governance process comprising industry, the Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Social Development (MSD), through which the regional allocation of workers is determined; and
 - 8.3 through the granting of RSE status and Agreements to Recruit (ATRs) to employers that have demonstrated that they meet all of the requirements of the scheme.
- 9 These processes ensure that the horticulture and viticulture industry remains under pressure to only access migrant workers if it has demonstrated commitment to employing New Zealand workers. The industry must also demonstrate that it has the necessary infrastructure in place to ensure that employment conditions for migrant workers are maintained. Other initiatives aimed at increasing the proportion of New Zealanders working in the horticulture and viticulture sector complement these processes.

The number of RSE workers that come to New Zealand each year is capped

- 10 The RSE scheme has a cap on the number of visas that can be issued in a 12 month period. The cap was originally set at 5,000 and, as a result of analysis of labour shortages in the industry, was increased in the following years:
 - 10.1 to 8,000 in 2006/07;
 - 10.2 to 9,500 in December 2015; and

1 The eligible Pacific nations are the Federated States of Micronesia, Fiji, Kiribati, Nauru, Palau, Papua New Guinea, the Republic of Marshall Islands, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu.

10.3 to 10,500 in September 2016.

- 11 The cap number is specified in Immigration instructions, which can be changed by the Minister of Immigration. Previous Ministers of Immigration have traditionally made decisions on the cap jointly with the Minister for Social Development.
- 12 During peak season, RSE workers comprise around 9 per cent of the horticulture and viticulture workforce. The majority of the workforce is made up of New Zealand citizens and permanent residents, followed by working holidaymakers.

The available evidence supports an increase in the cap for the RSE scheme

- 13 In consultation with the Minister for Social Development, I intend to increase the cap on the number of temporary workers that can be granted visas under the RSE scheme in a 12 month period by 600 places to 11,100 from the 2017/18 horticulture and viticulture season.
- 14 The Minister for Social Development and I consider that the key principles of the RSE scheme are being met and that an increase in the number of RSE workers will provide a reliable source of labour to fill expected shortages in the 2017/18 horticulture and viticulture season, and will support industry growth and regional economic development. The key factors that we have considered are:
 - 14.1 The forecast shortfall of workers in the horticulture and viticulture industry for 2017/18;
 - 14.2 RSE employers' commitment to employing New Zealanders;
 - 14.3 The available accommodation to support an increased number of RSE workers;
 - 14.4 The positive impacts of the RSE scheme in Pacific Island countries; and
 - 14.5 RSE employers' commitment to providing pastoral care and acceptable employment conditions.

A moderate worker shortfall is expected in 2017/18

- 15 The national and regional RSE governance process has determined that 616 additional RSE workers will be required in the 2017/18 season. The expected number of workers required is consistent with forecasting that was undertaken by the New Zealand Institute of Economic Research (NZIER) in 2016 which predicted that in a mid-case scenario, the worker shortfall will increase by 548 in 2017/18 in comparison to 2016/17.
- 16 The RSE scheme is managed by a national and regional governance process that comprises the horticulture and viticulture industry, the Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Social Development (MSD). Each year, the industry identifies its labour needs, and these are tested against the available sources of labour to determine the number of RSE workers required by each region. This includes determining what efforts are being made by employers to recruit New Zealanders, particularly Work and Income clients.
- 17 MBIE and MSD have responsibility for signing off the regional allocations of RSE workers, with the role of industry advisory only, as agreed by Cabinet in 2014 [CAB Min (14) 1/9].

RSE employers are demonstrating their commitment to employing New Zealanders

- 18 One of the key principles of the RSE scheme is “New Zealanders first”. RSE employers are expected to attempt to hire New Zealanders (particularly Work and Income clients) before they seek to hire migrant labour through the scheme.
- 19 There is evidence that RSE employers are actively seeking to hire New Zealanders, and particularly Work and Income clients. Of the 134 current RSE employers, feedback provided to MSD officials indicates that approximately 90 per cent have a positive working relationship with MSD. Most RSE employers also report that they are able to employ more permanent and seasonal New Zealand workers as a result of their participation in the scheme.
- 20 The Minister for Social Development and I consider that there is also merit in assessing whether some of the regional initiatives to improve the access of New Zealanders to employment opportunities in the horticulture and viticulture industry could be applied more widely. We consider that there is scope for the sector to undertake more workforce capability planning and development to demonstrate their commitment to developing a domestic workforce.
- 21 The Minister for Social Development and I have directed officials to undertake further analysis of the opportunities for New Zealand workers in the sector, including an outline of existing initiatives being undertaken by government and industry, and areas where new or improved initiatives could be considered. We expect officials to report back in the first half of 2018.

Accommodation pressures

- 22 In coming to the decision to increase the cap for the RSE scheme, the Minister for Social Development and I have acknowledged that there are accommodation pressures in some regions where the RSE scheme operates, particularly in Marlborough and the Bay of Plenty.
- 23 We have carefully considered the impact of an increase in the cap on accommodation pressures. RSE employers are required to provide access to safe and suitable accommodation for their RSE employees, which can be purpose-built or provided by a third party. Currently, around half of all accommodation provided by RSE employers is purpose-built. Purpose-built accommodation is preferred as it reduces demand on other accommodation types.
- 24 The Labour Inspectorate assists Immigration New Zealand (INZ) to ensure that RSE employers provide an acceptable standard of accommodation that provides sufficient capacity for the RSE workers that they wish to employ. This process is undertaken before an Agreement to Recruit (ATR) is granted, and ensures that accommodation for RSE workers has been identified before they arrive in New Zealand.
- 25 The horticulture and viticulture industry has indicated that it is intending to move towards providing more purpose-built accommodation for RSE workers. Officials across government will continue to work closely with the industry to encourage employers to fulfil this intention and meet their obligations to provide accommodation for workers.

Employment conditions for RSE workers are closely monitored

- 26 The Labour Inspectorate has a responsibility, as it does for all employers, to ensure that RSE employers are meeting their obligations to provide employees with their minimum

employment entitlements. Accommodation for RSE workers is subject to assessment by the Labour Inspectorate before an ATR can be decided by INZ.

- 27 A Labour Inspectorate survey found that on average, RSE workers were paid more than the minimum wage – in 2016, the average hourly wage for an RSE worker was \$18.73 compared with the national minimum wage of \$15.25.
- 28 In 2016, 11 per cent of RSE employers reported character-related issues with RSE workers occurring during work hours, and 38 per cent had experienced issues outside of work hours.² These figures are not significantly different to previous years, indicating that any issues in regards to worker behaviour are isolated and not reflective of an increasing issue.

The RSE scheme has positive impacts in Pacific Island countries

- 29 The RSE scheme has been described by the World Bank as the “one of the most effective development interventions for which rigorous evaluations are available”. The World Bank estimates that Pacific RSE workers remit \$40m to the Pacific each year, an important source of foreign exchange. In Samoa and Tonga, for example, total remittances account for approximately 20% of GDP. Per capita income of households in Tonga and Vanuatu that participated in the RSE scheme were found to have risen by 30 per cent in comparison to other households. This increase in income was associated with increased saving and home improvement, indicating that the RSE scheme was having a long-term positive impact on participating countries.
- 30 The RSE scheme also provides an opportunity for Pacific workers to access training while in New Zealand, through industry training organisations and bespoke training programmes funded by the New Zealand Aid Programme. Developing Pacific workers’ skills, for example in horticulture, basic trades, small business and leadership, provide an important contribution to economic development in the Pacific.
- 31 The RSE scheme is integral to the Labour Mobility Arrangement signed alongside the Pacific Agreement on Closer Economic Relations Plus (PACER Plus) between New Zealand, Australia and nine Pacific Island countries in June 2017.³ Under the Labour Mobility Arrangement, New Zealand has committed to enhancing the RSE scheme to maximise the development benefits for the Pacific as well as exploring opportunities for new labour mobility schemes beyond the horticulture and viticulture sectors.

Consultation

- 32 The following government agencies were consulted on the proposals in this paper: the Ministry of Social Development, the Ministry of Foreign Affairs and Trade and the Department of Prime Minister and Cabinet.
- 33 The horticulture and viticulture industry is involved in the national and regional governance process that determines the number and regional allocations of RSE workers for each season.

² Research New Zealand *RSE Monitoring Survey*, October 2017.

³ The nine Pacific Island countries are the Cook Islands, Kiribati, Nauru, Niue, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu.

Financial Implications

34 This proposal has no financial implications.

Human Rights

35 The proposed changes appear to be consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative and regulatory implications

36 There are no legislative or regulatory implications associated with changing the cap number for the RSE scheme. The cap number is specified in Immigration instructions, which can be changed by the Minister of Immigration.

Publicity

37 An announcement of the decision to increase the cap number for the RSE scheme will be made by my office, in consultation with the Minister for Social Development. Employers in the horticulture and viticulture industry will have a strong interest in the decision as it will support planning for the 2017/18 season, which is underway.

38 This paper will be proactively released in due course.

Recommendations

39 The Minister of Immigration recommends that the Committee:

- 1 note that the Recognised Seasonal Employer (RSE) scheme currently allows the horticulture and viticulture industry to employ up to 10,500 seasonal migrant workers each year, mostly from the Pacific;
- 2 note the three key principles underlying the RSE scheme:
 - 2.1 New Zealanders first: employers should seek to employ local workers first; if they are unable to find New Zealanders, then migrant workers can be employed
 - 2.2 "Recognition" of employers: employers must be able to demonstrate that their employment and pastoral care practices are sufficiently high quality for them to be permitted to access the scheme
 - 2.3 Pacific preference: employers should employ migrant workers from the Pacific, unless they have an established relationship with workers outside the Pacific
- 3 note that the Minister of Immigration and the Minister for Social Development consider that the principles in recommendation (2) are being adhered to, and have considered:
 - 3.1 The forecast shortfall of workers in the horticulture and viticulture industry for 2017/18;
 - 3.2 RSE employers' commitment to employing New Zealanders;

- 3.3 The available accommodation to support an increased number of RSE workers;
- 3.4 The positive impacts of the RSE scheme in Pacific Island countries; and
- 3.5 RSE employers' commitment to providing pastoral care and acceptable employment conditions.
- 4 note that a moderate worker shortfall of approximately 600 workers has been identified for the 2017/18 horticulture and viticulture season
- 5 note the intention of the Minister of Immigration, in consultation with the Minister for Social Development, to increase the cap on the number of temporary visas that can be granted by under the RSE scheme in a 12 month period by 600 to 11,100 from the 2017/18 season
- 6 note that the Minister for Social Development and I acknowledge that there are accommodation pressures in some regions where the RSE scheme operates, and consider that the proposed increase in the cap number is appropriate given that:
- 6.1 RSE employers must satisfy the Labour Inspectorate and Immigration New Zealand that they are able to provide access to an acceptable standard of accommodation for RSE workers before they are able to recruit workers under the scheme
- 6.2 officials across government will continue to work with the horticulture and viticulture industry to encourage employers to fulfil their intention to provide more purpose-built accommodation for RSE workers, which will reduce pressure on other accommodation types
- 7 note that the Minister for Social Development and I have directed officials to undertake further analysis of the opportunities for New Zealand workers in the horticulture and viticulture industry, and expect officials to report back in the first half of 2018
- 8 note that this paper will be proactively released in due course.

Authorised for lodgement

Hon Iain Lees-Galloway
Minister of Immigration