

Fact Sheet - Crew of chartered foreign fishing vessels - New standards.

20 October 2006

Introduction

As a result of recent discussions between the Government, the Fishing Guild and the Seafood Industry Council, new standards have been developed to improve the conditions for foreign crew working on chartered foreign fishing vessels in New Zealand. These standards form the basis of the minimum requirements for the grant of visas and permits to foreign crew on foreign chartered fishing vessels, established by the Department of Labour (Immigration).

What's new?

The new minimum requirements for the grant of visas and permits to foreign fishing crew include the following:

- Compliance with a new *Code of Practice on Foreign Fishing Crew* which contains improved minimum working and living conditions, a new minimum remuneration requirement and a new accountability framework. To view the Code of Practice go to the Department of Labour immigration website at www.immigration.govt.nz/fishingcrew. All New Zealand charter partners will be required to be signatories to the Code of Practice.
- A *Deed of guarantee of financial obligations in respect of foreign crew* will be required from an acceptable New Zealand party before Approval in Principle will be granted for the recruitment of foreign crew. Approvals in Principle are granted on a case by case basis and enable the hiring of foreign crew for a set period, when New Zealanders are unavailable for the work.
- A gradually increasing level of required remuneration for foreign crew. The minimum remuneration requirement will be increased over the next three years to a level which is more comparable with domestic fishing crew, as specified in the Code of Practice.
- That the Government will be able to undertake onboard inspections to ensure compliance with the Code of Practice regarding employment conditions.
- That the charter partners will be required to keep and make available accurate employment records.

Who are the new standards and requirements for?

The new standards and requirements have been developed to improve the conditions for crew of Foreign Charter Vessels (FCV). These are fishing vessels chartered to fish New Zealand waters by a New Zealand charter partner and play an important role in the New Zealand fishing industry. Their crew are almost always foreign, generally from Asia or Eastern Europe, and at times have experienced poor living and working conditions. The Department of Labour grants Approvals in Principle to employ foreign crew if there are no New Zealand fishing crew members available or insufficient numbers of New Zealand crew.

Why were changes necessary?

Under immigration work policy there is an expectation that all temporary migrant workers will be paid at the market rate for New Zealand workers in the relevant occupation. However, in general, foreign charter vessel crew rates fall at the low end of the range applicable to the New Zealand fishing industry. It is common for foreign charter vessel crew to be paid the minimum wage, a wage that domestic fishing crew are not likely to accept.

These changes have been made to align wages with market rates, protect the living and working conditions of FCV crew, ensure the foreign charter partner and New Zealand charter partner are compliant with the mandatory Code of Practice and enable foreign crew to settle employment disputes in New Zealand.

When do the changes take effect?

All future Approvals in Principle will be subject to the new arrangements.

What is the process for gaining permission to recruit foreign fishing crew?

1. The New Zealand charter partner must request an Approval in Principle (AIP) from the Department of Labour on behalf of their foreign charter partner to employ a stated number of foreign crew.
2. The Department of Labour must be satisfied that there are no suitably qualified and experienced New Zealand workers available before an AIP to recruit foreign workers is granted.
3. The Department of Labour must be satisfied that the charter partners will adhere to the Code of Practice and have a history of compliance with the Code.
4. If an AIP is granted, the foreign charter partner (or their agent) is then required to submit individual work visa applications for each foreign charter vessel crew member. These individual applications are then considered against immigration policy and the specifications in the AIP. An immigration or visa officer may issue a work visa to an individual if they meet standard immigration policy requirements and the requirements specified in the AIP.
5. If the application is approved, a work visa will be issued for a stated vessel and period as stipulated in the AIP.

What do the changes mean for the New Zealand charter partner?

- To be granted an AIP, the NZ charter partner must be a signatory to the Code of Practice on Foreign Fishing Crew (October 2006). They must also provide evidence that the terms and conditions offered by the foreign charter partner meet those specified in the Code of Practice and in the remuneration schedule.
- An acceptable New Zealand party must act as a guarantor, by way of deed, for specified obligations and duties to foreign crew employed by the foreign charter partner. The completed deed must be provided before an AIP can be granted.
- The guarantor will be accountable to crew in the circumstances of default by the foreign charter partner.
- Immigration New Zealand may request evidence that the guarantor has the ability to meet their obligations with respect to the deed before an AIP is granted.

What do the changes mean for the foreign charter partner?

- The foreign charter partner must provide employment contracts that include the standard principles as listed in Appendix 9 of the Code of Practice and show a remuneration level that meets the minimum requirements.
- The foreign charter partner must keep accurate employee records and make these available to the Department of Labour on request.
- The foreign charter partner must comply with inspections by the Department of Labour when required.