NEW ZEALAND IMMIGRATION

Guide to Becoming a Recognised Seasonal Employer

Accessing workers from overseas for the horticulture/viticulture sector

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Introduction

The horticulture and viticulture industries are significant to New Zealand, and if the available New Zealand workforce is not sufficient to meet the seasonal demands of these industries, employers may be able to access overseas workers under the Recognised Seasonal Employer (RSE) Scheme.

The RSE instructions facilitate the temporary entry of overseas workers into New Zealand to plant, maintain, harvest and pack crops in New Zealand's horticulture and viticulture industries.

All applications to work for an RSE must be made as a limited visa application for an 'express purpose' (in this case to work for an RSE).

RSE instructions process

STEP 1: Recognised Seasonal Employer (RSE)	STEP 2: Agreement to Recruit (ATR)	STEP 3: Visa application
Employer applies for recognition as an RSE. Validity: **two years**. A further application must be made prior to the end of this period. (RSE status may be granted for **three years** for subsequent applications.)	**Employer** with RSE status applies for an agreement to recruit workers from offshore. Validity: **one seasonal period.**	Prospective **worker** with an offer of employment linked to an ATR applies for a visa offshore. Validity: **seven months** maximum in any 11-month period. However, if the applicant is a citizen of Tuvalu or Kiribati, and is normally resident in Tuvalu or Kiribati, they may be granted a permit for a maximum stay of **nine months.**

Step 4: Following season

Options for the overseas worker to return to New Zealand next season if conditions are met, and:

- they have complied with all immigration requirements, and
- there is a continued labour shortage present, and
- a new Agreement to Recruit is obtained.

What are the objectives of the RSE instructions?

There are five objectives.

- Allow horticulture and viticulture businesses to supplement their New Zealand workforce with overseas workers when labour demand exceeds the available New Zealand workforce and employers have made reasonable attempts to train and recruit New Zealand citizens and residence class visa holders.
- Promote best practice in the horticulture and viticulture industries to support economic growth and productivity of the industry as a whole, while ensuring that the employment conditions of both New Zealand and overseas workers are protected and supported.

- Encourage economic development, regional integration and good governance within the Pacific, by allowing preferential access to workers who are citizens of eligible Pacific countries.
- Ensure workers recruited under these instructions are adequately paid and benefit financially from their time in New Zealand.
- Ensure outcomes which promote the integrity, credibility and reputation of the New Zealand immigration and employment relations systems.

Who may be eligible to become an RSE?

New Zealand horticulture and viticulture businesses, who foresee seasonal labour shortages in their recruitment programme for workers to plant, maintain, harvest and pack crops.

How does an employer apply for RSE status?

You must apply on the form *Application for Recognised Seasonal Employer Status (INZ 1140)*, pay the fee, and provide evidence that you meet the RSE instructions requirements.

The application must be sent to:

Recognised Seasonal Employer Unit
Immigration New Zealand
PO Box 50728
Porirua 5240

What are the requirements for RSE status?

Employers must prove that they:

- are in a sound financial position
- have human resource policies and practices of a high standard
- have demonstrated a commitment to recruiting and training New Zealanders, and
- have good workplace practices and have, in the past, met all relevant immigration and employment laws.

We will also take into consideration:

- how long your company or organisation has been in business
- whether you have engaged with the relevant Industry Training Organisation (ITO)
- whether you are a member of any relevant industry bodies (eg Horticulture New Zealand, New Zealand Kiwifruit Growers Inc, Pipfruit New Zealand, Hawkes Bay Fruitgrowers Association, New Zealand Wine, Rural and Associated Contractors Federation, or a regional contractors' association)
- whether you are certified by any quality standard organisation (eg NZ GAP), and
- whether you have previously held RSE status which was rescinded.

Additionally, we must be satisfied that if you are granted RSE status you will:

- recruit and train New Zealanders before seeking to recruit overseas workers
- avoid using a recruitment agent to recruit overseas workers who seeks a commission from workers in exchange for securing an employment agreement
- pay the market rate for the work carried out
- pay half the return airfare between New Zealand and the worker's country of residence (for the purposes of these instructions, the return airfare is defined as the total cost of travel from the worker's country of residence (or from Nadi (Fiji) for a worker who is a citizen of Tuvalu or Kiribati) to New Zealand and back, including all associated taxes and fees)
- ensure overseas workers have access to suitable accommodation, food, and health services at a reasonable cost
- let us know as soon as possible if any of your overseas workers breach their visa conditions
- let us know as soon as possible about any disputes with holders of RSE visas that have resulted in suspension or dismissal of the worker
- have direct responsibility for the daily work output and supervision of the workers recruited under these instructions (unless the exception to this requirement described below applies)
- not use the services of a contractor who does not have good workplace practices
- comply with RSE requirements for employment agreements (see pages 4 and 5), and
- disclose, on request, to representatives of the Ministry of Business, Innovation and Employment, all payments received from RSE workers (including payments for airfares, accommodation, and other pastoral care)
- take all reasonable steps to find full time work for the duration of an RSE worker's visa, including by finding work opportunities with other RSE employers if necessary

- ensure that employees involved in the recruitment or management of RSE workers complete all the Employment New Zealand employer e-modules at least once during each RSE status period.

Direct responsibility and supervision exception

An RSE is not required to have direct responsibility for the daily work output and supervision of non-New Zealand citizens and resident workers recruited under RSE instructions when the workers are temporarily working on the worksite or worksites of another RSE (the recipient RSE), and the recipient RSE has agreed to take on these responsibilities. The RSE who employed the workers under RSE instructions (the first RSE) remains accountable for all other responsibilities under RSE instructions.

This arrangement may only occur where:

1. the total period of work on the recipient RSE's worksite or worksites is of one month or less
2. the worksite or worksites of the recipient RSE is within the same region as that specified in the ATR held by the first RSE, or
3. the worksite or worksites of the recipient RSE is within another region where the workers are temporarily relocating for the purposes of repatriation; and
4. the first RSE has notified INZ in advance of the workers starting work at the recipient RSE's worksite or worksites.

What supporting documents does an employer need to provide?

Evidence of...	May be provided by submitting the following documents.
A sound financial position	A recent signed statement of credit worthiness from the employer, stating that the business is financially viable and that they know of no adverse credit matters affecting the business. A recent statement from a chartered accountant confirming the business is financially sound and is able to meet all outstanding contingent liabilities. A recent authenticated set of accounts showing a sound financial position.
Human resource policies and practices	A written statement documenting any changes to human resource policies and practice since the previous application, or confirmation that there have been no changes. A recent copy of the business' human resources policy ie an HR manual.
Commitment to recruiting New Zealanders	A copy of the business' policy on the recruitment of New Zealand citizens and residence class visa holders to fill seasonal shortages. A written description of the steps taken in the previous 12 months to recruit workers. Recent evidence of previous advertising.
Commitment to training New Zealanders	A recent letter of support from an industry body confirming the employer's commitment to recruiting New Zealanders. Recent records of any previous communication with Work and Income regarding the recruitment of workers. A copy of the business' policy on the training of their workers (New Zealand and overseas workers). Records of in-house training and development programmes. Involvement with any New Zealand Industry Training Organisation. Records of funding provided to workers to allow attendance at training courses by external training providers.
Good workplace practices	A written statement documenting any changes to health and safety policies since the previous application, or confirmation that there have been no changes. A recent copy of the business' health and safety policies and procedures.
We may request further information and documentation from you to assess your application, if necessary.	

Verifying your claims

We may also need to verify your claims with other agencies such as the Ministry of Social Development, Inland Revenue, the Accident Compensation Corporation, the New Zealand Council of Trade Unions, other services of the Ministry of Business, Innovation and Employment, and any relevant unions, agencies, and industry bodies.

How long is RSE status valid for?

RSE status initially lasts two years. If you meet our requirements in those two years and apply again for RSE status, we can grant you RSE status for a further three years.

I have RSE status. Now what?

If the available New Zealand workforce is not sufficient to meet the seasonal demands, you may apply for an Agreement to Recruit (ATR).

What is an Agreement to Recruit?

An ATR is an approval letter that allows a Recognised Seasonal Employer to recruit overseas workers to plant, maintain, harvest and pack crops, for a set period of time, if there is a shortage of available workers in New Zealand.

Who may apply for an Agreement to Recruit?

Only employers with RSE status may apply for an ATR.

What should I do when I need to apply for RSE status again?

If you are likely to have ongoing needs to employ RSE workers, you will need to maintain your RSE status. You will need to re-apply before your RSE status expires to avoid disruption to your workforce. You will need to satisfy us that you are still meeting, and will continue to meet, the requirements of RSE instructions, so you will need to provide updated versions of many of the documents you provided with your previous application. However, in some cases a written statement documenting any changes or confirming that no changes have taken place will be sufficient.

How does an employer apply for an ATR?

Employers must apply on the form Application for an *Agreement to Recruit (INZ 1141)*, pay the fee, and provide evidence that they meet the ATR requirements.

The application must be sent to:

Recognised Seasonal Employer Unit
Immigration New Zealand
PO Box 50728
Porirua 5240

What does an employer need to provide with an ATR application?

The application form asks for:

- the region(s) of seasonal demand
- the number of workers required
- the nature of each position (planting, maintaining, harvesting, or packing crops)
- the length of time each position is available (ie the start and end date of employment)
- the location where the work will take place
- the country or countries from which the employer intends to recruit workers (see page 6 for a list of countries from which an employer with an ATR can recruit)
- a copy of the employment agreement that will be offered to the overseas workers (see below for key points for employment agreements), and
- evidence that they have taken all reasonable steps to recruit and train New Zealanders before seeking an ATR.

Employers will also have to show us that they will provide the following to ensure overseas workers are well looked after (we call this 'pastoral care'). This will include evidence of:

- transportation to and from the port of arrival and departure
- an induction programme
- suitable accommodation
- transportation to and from the worksite(s)
- access to acceptable medical insurance
- access to personal banking
- personal protective equipment
- onsite facilities (toilets, hand washing, first aid, shelter, fresh drinking water)
- necessary language translation (eg for health and safety purposes), and
- the opportunity for recreation and religious observance.

Employers must show us that the RSE worker accommodation will not exacerbate residential rental housing pressures. Residential accommodation must be owned by the employer and/or purpose built for use by horticulture and viticulture workers if located in Auckland (including Upper Auckland), Marlborough, Nelson/Tasman, Northland and Otago). In addition, residential accommodation purchased by the employer after 26 September 2019 cannot be used as RSE worker accommodation in the Bay of Plenty and the Hawkes Bay due to higher housing pressures in these regions.

These housing restrictions do not apply to accommodation included in an ATR approved before 26 September 2019.

Employers must also agree to:

- pay repatriation costs of up to NZ$3000 per person if any of their overseas workers need to be sent back to their home country because they have breached the terms and conditions of their visa (this agreement must be made in writing, and a template of this repatriation agreement can be found on our website **www.immigration.govt.nz**)
- allow the Ministry of Business, Innovation and Employment to audit the business against RSE instructions, the conditions of the ATR, and the employment agreements
- inform the Ministry of Business, Innovation and Employment of the expected departure date of the overseas workers once bookings for outward flights have been made, and
- arrange, but not necessarily pay for, acceptable medical insurance for the overseas workers for the duration of their stay in New Zealand, as set out in the RSE instructions.

Employers who are applying for a joint ATR for workers to work for different employers for consecutive periods (e.g. three months for the first employer and four months for the second employer) should provide the name of the other employer.

Key points for employment agreements

Employment agreements must:

- be in writing
- be consistent with the terms of the ATR
- be for employment in planting, maintaining, harvesting, or packing crops in the horticulture or viticulture industries
- be for a period of no more than seven months (or nine months if the workers are citizens and residents of Tuvalu or Kiribati),
- comply with all relevant New Zealand employment law,
- state that the employer will pay for half of the return airfare between New Zealand and the worker's country of residence (for the purposes of these instructions, the return airfare is defined as the total cost of travel from the worker's country of residence (or from Nadi (Fiji) for a worker who is a citizen of Tuvalu or Kiribati) to New Zealand and back, including all associated taxes and fees)
- ensure that workers will be paid no less than the market rate (which is the typical rate a New Zealand citizen or residence class visa holder is paid for doing the equivalent work, in the same period, in the same region) for actual hours worked
- specify a 'per hour' rate for the work to be performed by the worker, and where piece rates apply, also specify the piece rate(s), and
- comply with minimum remuneration, sick leave and pay deductions requirements.

If a worker is working for two or more employers under joint ATRs, they must have an employment agreement with each employer.

Minimum remuneration requirements

The minimum remuneration requirement for employment agreements that are for a period of six weeks or longer, is the greater of the following amounts:

- payment for 240 hours at the 'per hour' rate, regardless of the actual availability of work, or
- payment, for an average of 30 hours per week, at the 'per hour' rate for each four-week period of employment.

The minimum remuneration requirement for employment agreements that are for a period of less than six weeks, is payment for 40 hours per week, at the 'per hour' rate, over the period of work offered in the employment agreement, regardless of the actual availability of work.

The current RSE minimum hourly pay rate can be found on our website at **www.immigration.govt.nz/wages**

Pay deduction requirements

Any pay deductions must:

- comply with relevant New Zealand employment legislation
- be freely consented to (in writing) by the worker
- be for a specified purpose and for actual, reasonable, verifiable expenses, and
- be no greater than deductions from New Zealanders (in comparable circumstances).

For comprehensive information on all employment agreement requirements, including the latest minimum per hour rate, see WH1.20

in the INZ Operational Manual available on our website **www.immigration.govt.nz/opsmanual**.

Key points for acceptable medical insurance

To meet the minimum requirements under RSE instructions, medical insurance must be provided by a company who:

- is represented in New Zealand
- has experience in health and/or travel insurance business
- has a credit rating of no lower than A from Standard and Poors or B+ from AM Best
- will inform us if the worker's insurance policy is cancelled or lapsed.

The insurance policy must cover the full costs of:

- all medical expenses including diagnosis and treatment, prescribed medicines, ambulance, hospital and post-hospital discharge care, home nursing care
- emergency dental care, including the provision of antibiotics and treatment for the relief of sudden and acute pain
- evacuation/return home in the event of serious illness or disability
- the return of remains to your country of origin in the event of death.

Despite the above, acceptable medical insurance may exclude costs related to:

- suicide or attempted suicide
- sexually transmitted disease
- any situation or action when under the influence of alcohol or non-prescribed drugs
- human immunodeficiency virus (HIV) and/or HIV-related illness including acquired immune deficiency syndrome (AIDS)
- childbirth or pregnancy unless they arise from medical complications that occur before the end of the 24th week of pregnancy, or
- pre-existing conditions.

What other things do we take into account when deciding an ATR application?

In determining whether you will be granted an ATR, we will take into account:

- whether you have engaged with the Ministry of Social Development – Work and Income and your vacancies have been listed with the appropriate regional Work and Income office(s)
- whether it is clear that there are no New Zealand citizen or residence class visa holder workers available to undertake the work
- whether there are sufficient places left in the RSE instructions
- whether the number of workers requested is appropriate for the work required, or this number of people exceeds the forecast labour shortage for the region and period requested, and
- whether the needs of the horticulture industry and viticulture industry as a whole have been taken into account.

Which countries can an employer with an ATR recruit from?

As one of the objectives of the RSE instructions is to encourage economic development in the Pacific, citizens of the listed Pacific countries (residing in one of the listed countries) have been given preferential access to these instructions.

Federated States of Micronesia	Republic of Marshall Islands
Fiji	Samoa
Kiribati	Solomon Islands
Nauru	Tonga
Palau	Tuvalu
Papua New Guinea	Vanuatu

Employers may be granted an ATR to recruit overseas workers from outside the Pacific nations listed if we are satisfied that:

- reasonable attempts to recruit from the Pacific nations listed have not been successful
- the employer has pre-established relationships with workers of other countries, or
- the employer can provide reasonable grounds why it is not feasible to recruit from the Pacific countries listed.

In all three instances, before an ATR to recruit from other countries will be granted, considerable evidence will be required to validate the reason for recruitment outside the listed Pacific countries.

Once an RSE has an ATR, how do they locate overseas workers?

Employers will need to undertake their own recruitment programme. When an employer is granted RSE status, they will be provided with further information on RSE instructions and procedures that will include information on recruitment and the contact details of Pacific government representatives that are willing to assist in the recruitment of their nationals.

Some employers may have previously recruited from offshore and may decide to rely on existing networks to recruit workers.

Can an agent be used to seek overseas workers or submit their visa applications?

An agent or adviser can be used to seek workers or to submit visa applications on the worker's behalf, but an employer must not use a recruitment agent who seeks a commission from the workers in exchange for securing an employment agreement.

If an agent or adviser is used by an overseas worker or by the employer to submit the RSE limited visa application(s), it is important to note that:

- INZ only requires the INZ RSE limited visa application fee to be paid when submitting the application (available in our *Fees Guide* or at **www.immigration.govt.nz/fees**), and
- applications that are lodged by an agent or adviser are not prioritised by INZ in any way.

If offered seasonal work, what do overseas workers need to do?

Under the RSE instructions, overseas workers must obtain an RSE limited visa before they arrive in New Zealand. RSE limited visa applications must be submitted to the applicant's nearest INZ office that processes RSE limited visa applications (refer to **www.immigration.govt.nz/fees** to locate the appropriate receiving office). An applicant is required to submit:

- a completed application form
- the application fee*
- a copy of their signed employment agreement, or a signed employment agreement for each employer if they will be working for more than one employer, and
- an *X-ray Certificate for Temporary Entry (INZ 1096)* depending on the applicant's country of citizenship or residence.

An *X-ray Certificate for Temporary Entry* may be required, depending on an applicant's risk factors for tuberculosis (TB). Risk factors are determined by an applicant's country of citizenship or residence.

The lists of countries with risk factors for TB are included in table one on page 8.

What is the maximum time an RSE limited visa holder can stay in New Zealand?

The maximum stay in New Zealand under RSE instructions is seven months in any 11-month period (this includes travel time in New Zealand and any time required for an induction programme). However, applicants from Tuvalu or Kiribati (who are normally resident in Tuvalu or Kiribati), may be granted a visa for a maximum stay of nine months in any 11-month period.

There is no limit to the number of seasons a worker can **return** to New Zealand under RSE instructions, providing workers have an acceptable offer of employment, meet entry requirements and have complied with immigration requirements in the previous season(s).

Under certain conditions, workers who are in New Zealand on an RSE limited visa are able to apply for a further RSE limited visa to work for a different RSE or in a different job with their current employer (providing all requirements are met). Further RSE limited visas that result in a stay in New Zealand beyond the maximum period allowed will not be granted.

Where will I find information about fees for RSE instructions?

The current application fees to apply for RSE status, an ATR or a RSE limited visa are available in the *Fees Guide (INZ 1028*) or at **www.immigration.govt.nz/fees**.

New Zealand Business Number

Where you enter the details of an organisation or business, the form will have a field for a New Zealand Business Number (NZBN). The NZBN should have 13 numbers and always begins with 94. An NZBN is a unique identifier for all organisations operating in New Zealand. You do not have to fill in the NZBN if you do not know what it is or if the organisation you are providing details about is based outside New Zealand. You can find more information about the NZBN, including finding an NZBN for a specific organisation, by going to **www.nzbn.govt.nz**.

* You may provide the application fee directly to INZ. Ensure that your prospective RSE workers tick the appropriate box on the application form if you wish to provide the application fee.

Further information

Further information about the RSE scheme can be found at: **www.immigration.govt.nz/rseemployer** or by phoning INZ's contact centre on 0508 55 88 55.

Applications for RSE status or an ATR should be sent to the following address:

Recognised Seasonal Employer Unit
Immigration New Zealand
PO Box 50728
Porirua 5240

Required forms

The following forms and brochures can be downloaded at **www.immigration.govt.nz/forms**.

- *Application for Recognised Seasonal Employer Status (INZ 1140)*
- Application for an *Agreement to Recruit (INZ 1141)*
- *Application to Work in New Zealand for a Recognised Seasonal Employer (INZ 1142)*
- *Application from an Onshore RSE Worker (INZ 1269)*
- *Fees Guide (INZ 1028)*
- *Chest X-ray Certificate (INZ 1096)*

Table one: Countries, areas and territories with a low incidence of tuberculosis (TB)

American Samoa	France	Norway
Andorra	Germany	Oman
Antigua and Barbuda	Greece	Puerto Rico
Australia	Grenada	Saints Kitts and Nevis
Austria	Iceland	Saint Lucia
Barbados	Ireland	Samoa
Belgium	Israel (including the Occupied Palestinian Territory, and including East Jerusalem)	San Marino
Bermuda	Italy	Slovakia
British Virgin Islands	Jamaica	Slovenia
Canada	Jordan	Sweden
Cayman Islands	Libya	Switzerland
Chile	Liechtenstein	Tonga
Costa Rica	Luxembourg	Trinidad and Tobago
Cuba	Malta	Turks and Caicos Islands
Cyprus	Monaco	United Kingdom
Czech Republic	Montserrat	United States of America
Denmark	Netherlands	United States Virgin Islands
Dominica	Netherlands Antilles	Vanuatu
Finland	New Zealand	Vatican City

Te Kāwanatanga o Aotearoa
New Zealand Government