



# Seasonal Workers for Australia – Lessons from New Zealand

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In August 2008, the Australian Government announced a pilot study for a seasonal workers program, to recruit Pacific islanders for temporary harvest work in the horticulture and viticulture industries. Although conditions vary in significant ways, Australian farmers, unions and government agencies can learn from New Zealand's Recognised Seasonal Employer (RSE) program, which has been operating since 2007 – the New Zealand experience bringing unskilled workers from the Pacific raises issues and concerns which Australian policy makers, employers and unions should consider in implementing a similar scheme. The New Zealand Government, while acknowledging early administrative short-falls, argues that the RSE program has been a great success. But research by the 'Pacific Labour and Australian Horticulture' project at Swinburne University also identifies significant problems arising from a lack of engagement with unions, the community sector and Pacific diaspora communities. These difficulties cannot be dismissed as teething problems. The first year of the RSE program has highlighted the need for increased effort on labour rights, welfare services and 'pastoral care' for seasonal workers, and also the potential for linking seasonal work programs to broader development assistance to maximise the outcomes of increased remittance flows into Pacific villages and rural communities. In spite of employers' preference for self-regulation, the New Zealand experience suggests that any seasonal workers scheme must involve more than monitoring of conditions for temporary workers by employers and industry groups – the scheme must be regulated by government, and there must be a system of sanctions for breaches of those regulations.

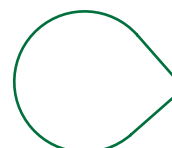
## Introduction

In the lead up to the August 2008 Pacific Islands Forum, the Australian Government announced a pilot study for a seasonal workers program. During the pilot over the next three years, 2,500 workers will come to Australia from four Pacific Island countries to work in horticulture and viticulture.

Announcing the seasonal worker program, Agriculture Minister Tony Burke stated that this pilot will be evaluated after 18 months, to determine whether a seasonal workers program should be continued and expanded beyond the four Pacific countries chosen for the initial study: Vanuatu, Kiribati, Tonga and Papua New Guinea (Burke 2008).

The first three countries – one each from Melanesia, Micronesia and Polynesia – are already recruiting workers for New Zealand's Recognised Seasonal Employer (RSE) scheme, while Papua New Guinea has historic links to Australia that make it hard to overlook as a partner in the pilot. Other countries are already seeking to be involved: the government of Timor-Leste has been actively lobbying for Timorese workers to be included in the scheme, while the Solomon Islands was disappointed that it was not included (though in August 2008 Honiara won the consolation prize of being formally added to New Zealand's RSE scheme).

Despite years of pressure from Pacific Island governments and Australian primary producers,



the Coalition Government under Prime Minister John Howard refused to create a seasonal work scheme. In August 2008, as the Rudd Government announced its seasonal workers proposal, leading Liberal politicians came out in opposition to the scheme (Stock and Land 2008; Smiles & Doherty 2008; Dodd 2008). Members of the National Party in fruit-growing regions were critical of their Coalition counterparts, worried that the reasonable concerns of their rural constituents about labour supply were being held hostage to domestic politicking. The sharpest criticism of the Opposition policy came from employer groups, with Denita Wawn of the National Farmers Federation stating: 'We're exceptionally disappointed with the Coalition. They are significantly out of touch with their position on the guest worker scheme' (ABC 2008a).

For disinterested observers, a more significant issue is that the contest for short-term political advantage will distract attention from the detailed policy questions that need serious attention if a seasonal worker pilot study is to succeed. After only one year of operation, the New Zealand experience alerts us to the fact that a commitment to worker welfare and rights must be central to the design and regulation of the scheme. All participants must work to ensure, among other things, a fair sharing of costs between workers and employers, adequate preparation of workers for life in Australia, appropriate pastoral care, the provision of suitable housing and the protection of seasonal workers' labour rights.

There is no denying that temporary labour migration has negative social impacts – such as the long-term separation of a parent from a spouse and children. This does not mean that such a scheme is not workable or cannot be beneficial for Australia and the Pacific, for workers and employers. But it does place a powerful obligation on all levels of government and community to ensure that the scheme is designed to minimise the negative side of temporary migration for seasonal work.

In spite of the Opposition's criticism that little was known about the Government's proposal, the idea for a Pacific seasonal workers program has been under serious discussion for some time:

a 2003 inquiry by the Senate Foreign Affairs, Defence and Trade Committee on Australia's relations with the Pacific recommended that the Australian Government support civil society and private sector organisations to develop a pilot program for seasonal workers to come to Australia from the Pacific (Parliament of Australia 2003).

- the National Farmers Federation (NFF), Horticulture Australia and other employer organisations have long been researching and advocating proposals to address labour shortages in the horticulture and agriculture sectors (National Farmers Federation 2008).



- in 2006, the World Bank conducted a major study of temporary labour mobility between the Pacific and Australia, with analysis of demographic pressures in the islands, the role of remittances in development and modelling of the costs of seasonal work programs for employers, workers and government (Luthria et al. 2006).
- Pacific Island governments have lobbied for greater access for unskilled workers into Australia as part of the 2005 'Pacific Plan for Strengthening Regional Integration and Co-operation'. Papua New Guinea's former Foreign Minister Sir Rabbie Namaliu has stated: 'We believe that permitting increased labour mobility should be part of

Australia's and New Zealand's commitment to implementing the Pacific Plan. It is one way to demonstrate to our leaders that they are serious about assisting island countries to develop their capacity and their economies' (AFR 2005).

- a 2006 inquiry on harvest labour by the Senate Employment, Workplace Relations and Education Committee openly noted that 'domestic concerns and pressures' precluded a scheme being introduced in the lead up to the 2007 Australian elections (Parliament of Australia 2006).



Seasonal worker schemes are attractive for horticulture farmers as they can guarantee a regular source of labour at harvest time and reduce training costs, in an industry reliant on backpackers, gray nomads and people working cash-in-hand in breach of their tourist or student visas (Mares 2006). Pacific workers are attracted by Australian wage rates and there is much demand for employment opportunities from villagers who are skilled at farming or fishing, but lack the trade or professional qualifications needed to migrate to Australia and New Zealand.

Pacific governments are eager to extend the Australian program to soak up unemployment and increase flows of remittances into rural communities. A growing body of research on remittance spending indicates that the money

that workers send home is likely to have beneficial developmental impacts, with spending on improved housing, nutrition and children's education (Novib 2004; Connell & Brown 2005). Evidence shows that remittance money spreads well beyond the immediate recipient household, providing economic benefits for the broader community (Luthria et al. 2006, chapter 3).

Many Pacific governments also recognise that remittances are an increasing element of their economies – in its 2008 *Pacific Economic Survey*, the Australian Agency for International Development estimates that on current trends, remittances to the Pacific will overtake aid to the region by 2009 (AusAID 2008).

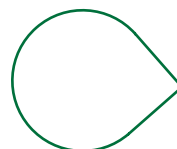
But there are significant social costs associated with temporary labour schemes, as detailed in a series of reports on the Canadian and New Zealand experience published through the 'Pacific Labour and Australian Horticulture' project at Swinburne University.<sup>1</sup> Our report 'Workers for All Seasons?' (MacLellan 2008) which looks at the first year of the New Zealand RSE scheme, and previous research on Canada's seasonal work program (Mares 2005), shows that a lack of engagement with unions, the community sector and Pacific diaspora communities has led to significant problems.

The experience of seasonal worker programs in New Zealand and Canada therefore raise issues and concerns which Australian policy makers, employers and unions should consider in implementing a similar scheme.

## New Zealand's RSE scheme

New Zealand's new scheme for temporary seasonal work for the horticulture and viticulture industries, known as the Recognised Seasonal Employer (RSE) program, began in April 2007 following earlier temporary migration programs. New Zealand has opened its doors to seasonal

<sup>1</sup> The author has been a research associate with the project, managed by Peter Mares. Our original study was funded by the Australian Research Council with an industry linkage grant, with industry partners Oxfam Australia and two local government authorities – the Sunraysia Mallee Economic Development Board (Mildura) and the Economic Development Unit of the Swan Hill Rural City Council. Copies of project working papers can be found on the Institute for Social Research (ISR) website at <http://www.sisr.net/cag/projects/pacific.htm>



workers from neighbouring island nations: villagers from Kiribati, Samoa, Tonga, Tuvalu and Vanuatu have come to New Zealand on temporary visas, to work in vineyards, farms and orchards across the country.<sup>2</sup>

Under the RSE program New Zealand employers undertake a process of registration and approval before recruitment of temporary overseas workers can commence.<sup>3</sup>

Firstly, an employer applies for registration as a Recognised Seasonal Employer (RSE). To achieve registration, employers must provide evidence of good workplace practices, pledge to pay the 'relevant market rate', ensure workers are 'suitably accommodated', provide for workers' 'pastoral care needs' (including food, shelter and clothing); allow Immigration officials and Labour Inspectors to make site visits and ensure that any recruitment agents do not charge commissions. There are also provisions requiring written policies on HR, health and safety, recruitment and training of New Zealand citizens. Once an employer gains RSE status, it initially lasts for two years, with subsequent renewals for 3 year periods.

Secondly, an RSE employer can seek an 'Agreement to Recruit' (ATR) overseas workers when local employees cannot be found. The ATR allows employers to seek a certain number of workers from a designated country, states how many workers are required in what roles and for how many hours. Under the ATR, employers have to guarantee to:

- pay half the travel costs for overseas workers flying to and from NZ;
- provide pay for 240 hours of work (an average of 30 hours per week minimum, or 40 hours for visas of less than 6 weeks);
- provide 'pastoral care' including accommodation, translation, transportation, recreation, religious observance and induction to life in New Zealand;

2 In spite of the stated focus on the Pacific, over 20 per cent of RSE workers came from South-East Asia in the first year. This undermines one of the principal justifications for the scheme – that it offers opportunities for development and employment in Pacific Island nations with restricted economic options.

3 Full details of the RSE program and application forms can be found at: <http://www.immigration.govt.nz/migrant/stream/work/hortandvit/rse/>

- provide evidence of market rates of pay;
- pay costs of removing workers from NZ if they overstay (and face possible revocation of their RSE status in some cases).

Thirdly, workers from approved countries apply for a special RSE work visa. RSE applicants from developing countries can obtain a visa for New Zealand under this policy if they meet certain criteria:

- are aged 18 or over;
- have a job offer in New Zealand from an RSE-registered employer;
- have a return air ticket;
- meet health and character requirements (eg HIV-positive people are not eligible for a visa under the RSE policy, and TB testing is required for some countries).

The New Zealand Government, while acknowledging early glitches and administrative short-falls, argues that the program has been a great success (NZ Department of Labour 2008). Over 100 companies have been approved as Recognised Seasonal Employers and, after a year of operations, 4,070 workers from the Pacific and South East Asia had RSE visa applications approved.



## Transitional arrangements for the scheme

The RSE scheme is part of a wider program of industry development, emphasising that seasonal worker schemes are not a one-off panacea for labour supply problems. In December 2005, NZ unions, employer groups and government departments signed a 'Medium to long-term horticulture and viticulture seasonal labour strategy'<sup>4</sup>, which includes five streams:

- Job opportunities for New Zealanders
- Accessing global labour
- Improved information on labour markets in the industry sectors
- Skills development
- Improving the business practices of contractors

When the RSE scheme was announced, it was intended to replace existing schemes that allowed NZ employers to recruit backpackers and other workers from overseas. But in a major blow to the integrity of the registration system, the government introduced a Transitional RSE (TRSE) scheme to run alongside the RSE scheme for two years from 26 November 2007 until 2009. These changes reduce the extent to which employers have to take responsibility for issues like local recruitment, pastoral care, skills training and workforce development.

4 Copies of the strategy can be found at: [http://www.hortnz.co.nz/communications/pdfs/Seasonal\\_Labour\\_Strategy.pdf](http://www.hortnz.co.nz/communications/pdfs/Seasonal_Labour_Strategy.pdf)

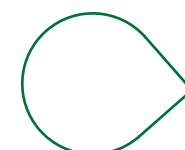
NZ unions are concerned that the TRSE is the first foot in the door to water down conditions that have been negotiated in the original RSE package, and that employers will seek further exemptions in coming years. However seasonal worker programs must complement, rather than undercut, investment in workforce development and skills training. The recruitment of workers from overseas will only be integrated into a long-term industry development if there is sector wide planning for labour market testing, skills development, training, and improved wages and conditions in an industry based on precarious and physically challenging work with relatively low pay.

In Australia, there is also a need for federal and state governments to work with Aboriginal and Torres Strait Islander organisations to investigate whether seasonal work programs can also engage indigenous Australians in the measures being proposed for Pacific Islander workers. Public concern about this issue at the time of the August 2008 announcement (Smiles 2008; Karvelas and Rintoul 2008; ABC 2008b) should be kept in perspective, given the industry requires thousands of employees to fill available jobs and the pilot will only involve 800 Pacific workers annually over the next three years (in contrast, New Zealand's RSE pilot has 5,000 workers a year).

## Self-regulation or enforcement?

As Opposition leader Brendan Nelson called for criminal and health checks on Papua New Guineans coming to pick fruit in Australia, PNG's agriculture minister John Hickey in turn urged the Rudd Government to protect workers from exploitation by employers: 'First we would like to see our workers belong to a trade union in Australia, because they would receive some protection from exploitation if they became trade unionists.' (Radio Australia 2008)

The protection of workers' entitlements and health and safety is a major concern in precarious industries like horticulture, agriculture and construction, which often operate in remote and isolated areas with low union coverage, limited government regulation and a highly casualised,



mobile workforce. Protecting wages and conditions becomes even more significant as growers' margins are reduced by increasing costs (related to the supply of water and energy and pressure on farmgate prices from supermarket chains).

In advocating a pilot study on seasonal workers, employer groups like the National Farmers Federation (NFF) have argued for a self-regulation model, relying on industry pressure to ensure that overseas workers are not ripped off (National Farmers Federation 2008). For example, the President of the Cherry Growers Association of Australia said that he did not want unions to be overly involved in monitoring the scheme: "Farmers generally treat their workers well and shouldn't be expected to give the Pacific Islanders any special treatment at the whim of the unions" (Macdonald 2008).

But the experience of seasonal workers schemes in New Zealand (Maclellan 2008) and Canada (Basok 2002; UFCW 2004; Russell 2004) shows that any seasonal workers scheme must involve more than monitoring of conditions for temporary workers – the scheme must be regulated by government, and there must be a system of sanctions for breaches of those regulations. Trade unions and government agencies must be engaged in supporting the labour rights of overseas workers, who are operating in a totally alien legal and political framework.

This regulation is important to maintain ongoing support for overseas recruitment from Australian and Pacific unions. Under the Howard Government, the Australian Council of Trade Unions (ACTU) and key affiliates opposed seasonal work schemes, fearful that the former government's industrial relations laws limited union access to workplaces and would lead to a two-tier labour system, with different wages and conditions for Australian and overseas workers. This fear was amplified by the many documented cases of exploitation of overseas workers under s457 visas for temporary skilled labour (AMWU 2006).

Some major unions continue to oppose the seasonal workers scheme, although the Australian Workers Union (AWU) – which covers many rural

workers – has given conditional support as long as it is well regulated, as noted by AWU Secretary Paul Howes:

We've had massive issues with illegal labour in these industries for several decades now. And what we've seen overseas that the only way to fix it up is to have a regulated system. (ABC TV 2008)

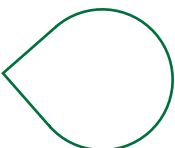
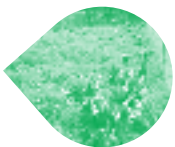
Unions will continue to seek involvement in any institutions created to regulate the scheme.

Foreign Minister Stephen Smith has announced that the management of the Australian pilot program will come under the portfolio of Deputy Prime Minister Julia Gillard as Minister for Education, Employment and Workplace Relations.



Placing the scheme under the her department rather than the Immigration Department is important in terms of regulating wages, conditions and occupational health and safety (there is a need for the Department to appoint extra inspectors to monitor implementation of the program, as New Zealand's Department of Labour has done for the RSE scheme).

Pacific governments are concerned that examples of overstaying will damage the reputation of the sending countries and promote a backlash that could end opportunities to send seasonal workers, and have supported the rapid return of workers who breach visa conditions. New Zealand's RSE scheme also places financial obligations



on employers to cover the costs for repatriating workers if they overstay their visa or breach local laws.

New Zealand officials state that the number of people breaching their visas is relatively small, given that nearly 4,000 people have participated in the scheme over the first year. However there have been cases of workers sent home for drinking off-orchard or other offences, which raises serious questions about the fundamental rights of Pacific Island workers, given the disparity of power between employer and overseas worker. Workers' lawful leisure time activities should not be subject to the discretion of employers or immigration authorities. Any seasonal workers



program should include a standardised disputes procedure, to ensure that workers being sent home are provided natural justice and grievance processes – especially as in other NZ migrant worker programs, there are cases where workers have been sent home after they agitated for better conditions (The Unionist 2007).

## Welfare and pastoral care

The experience of the RSE program has highlighted a number of areas where a lack of engagement with unions, the community sector and Pacific diaspora communities has led to significant problems. There is a need for increased effort on labour rights, welfare services

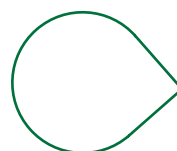
and 'pastoral care' for seasonal workers, and to address the shortage of secure and affordable housing in rural and regional areas.


Our study of the New Zealand RSE program (Maclellan 2008) includes examples of disputes between seasonal workers and employers over:

- poor housing (the NZ Department of Labour is currently investigating reports that a group of over 20 RSE workers from Kiribati were accommodated in one house).
- contracts being set by piece rate (eg per bin or per tree) at minimum wage rather than 'market rates.'
- the contentious issue of deductions – workers may be told the gross rates of pay, but not fully informed of all deductions by employers for housing, transport costs or recouping a share of airfares.
- claims by workers that they had been given inaccurate information on housing and other conditions, with workers from Tonga and Kiribati leaving early in spite of loss of wages and inconvenience to the employer.

The benefits of increased remittances should not overshadow the significant social costs of temporary migration for work. Seasonal workers are separated from family for extended periods of time, which can impact on children's welfare and education and put an extra burden on the elderly left in the village (Dennis 2003; Maclellan & Mares 2005). The New Zealand experience suggests that the length of time that workers are away from home needs careful consideration. Workers may wish to stay as long as possible to maximise their earnings but this may not be in the best interests of family at home. The Australian pilot places a time limit of seven months in each 12 month period, but this period must also address issues of lack of work at down times (which means no income but ongoing expenses for housing and food).<sup>5</sup>

<sup>5</sup> Chapter 4 of the 2006 World Bank study (Luthria et al. 2006) includes modelling of the balance between length of employment, financial benefits and administrative costs for workers and employers (visas, health checks, airfares etc).





## Pre-departure orientation and recruitment

The initial announcement of the Australian pilot by Agriculture Minister Tony Burke gave little information about issues like recruitment and pre-departure briefing. Yet the New Zealand experience has shown that the time-consuming and costly work of recruitment and providing information to applicants has a marked impact on the success of the placement of overseas workers.

Most of the sending countries have used their national Labour Ministries to select and screen potential workers in consultation with local island governments, churches and chiefs – the exception is Vanuatu, which has relied on private sector recruiters who contract with NZ employers. The regulation and licensing of recruitment agents will be a central feature of ongoing monitoring of workers rights, to avoid any perception of favouritism, corruption or kickbacks in the recruitment of workers.

Beyond health and police checks, another crucial step is the pre-departure briefing and orientation of workers. The provision of timely and accurate information to aspiring applicants is a central element of any scheme, to allow overseas workers to make an informed choice as to whether they should apply for the program. Governments and employers need to translate key information into local languages, develop standard contracts, and assist with provision of information on financial budgeting and transmitting remittances (local banks, credit unions or other financial institutions should develop efficient, low cost mechanisms to reduce the cost of remitting funds to workers' home countries, which are higher in the Pacific than anywhere else in the world).

Coordination of support services for seasonal workers in rural Australia will be assisted by provision of timely and transparent information about which employers are recruiting Pacific workers, to allow interaction with relevant unions, diaspora communities and social welfare organisations. Relevant government ministries and regional development authorities

could assist by creating websites that list which employers are registered for overseas recruitment and where they are recruiting.

Given evidence of alcohol abuse by Pacific workers in New Zealand, there is a need for pre-departure information on a range of social issues as well as about wages and workplace conditions: for example, on the weather, appropriate clothing, the quality of housing and issues like substance abuse, HIV-AIDS and gambling.<sup>6</sup>

There is also a need for greater involvement of a range of social partners in pre-departure briefings, support and advice programs. Australian policy makers need to investigate innovative solutions to address problems arising from temporary labour programs, such as creating regional stakeholder groups involving employers, unions, local government officials, church and government welfare agencies and relevant representatives from local Pasifika communities.

Employers could also assist with communication between seasonal workers and their families and communities at home to avoid loneliness and family problems (eg by providing telephones and computer terminals with Internet and email access in church or community centres in Australia).

## Community to community links

Along with the many cautionary lessons to be drawn from the New Zealand experience, there is also evidence of some more creative initiatives that might be adopted to make Australia's pilot seasonal labour scheme a success. These are measures to amplify the *human* side of the scheme, rather than focus only on its *economic* potential. Labour migration is unlike any other form of cross border transaction, in that it involves human beings, who bring with them desires, needs, opinions and rights. Rather than

6 The Secretariat of the Pacific Community's Regional Maritime Program has developed social responsibility modules for training seafarers (Dennis 2003) – it would be worth further study to see whether elements of these pre-departure training programs could be adapted for use in programs for seasonal agricultural workers.



being seen as a ‘problem’ to be managed, this should be embraced. A seasonal labour scheme for Pacific Islanders offers more than the potential for employers to find workers and workers to find jobs – it also offers the potential of personal engagement and encounter.

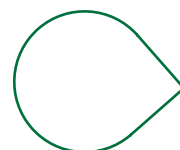
The early evidence from RSE suggests great potential for building and extending people-to-people links between horticulture regions and districts where workers are recruited. Given the regional nature of the sector in Australia, similar potential exists for the horticulture industry to join with local government, churches and community organisations to promote a model of ‘sister city’ relationships between regional municipalities and localities in the Pacific.

Under this scenario, a particularly region in the Pacific might be twinned with an area in country Victoria or New South Wales. In addition to recruiting seasonal workers from one region in the Pacific country, community organisations and church groups could take a lead role in organising social events, sporting and cultural activities to welcome the workers into the community. Service clubs (Rotary, Lions etc) and other NGOs could coordinate development activities with targeted communities in the Pacific and associated educational activities could be devised for local schools in Australia. Workers would be engaged in some level of formal training – for example in motor mechanics, first aid, workplace safety or handling chemicals – to ensure that they go home with useful skills as well as money in their pockets.

Although farmers will prioritise their own business interests, there is potential for linking seasonal work programs to broader development assistance, to maximise the outcomes of increased remittance flows into Pacific villages and rural communities. A key aim of a seasonal work program is to encourage the use of remittances to fund children’s education, improve housing or start small businesses. As yet, there have not been comprehensive studies on the earnings and spending patterns of RSE workers, but the limited data available and interviews with workers and

recruiters show that there are clear financial benefits for Pacific villagers, even after paying their share of travel and administrative costs.

Community-based organisations in both countries could cooperate to develop ways for remittances to contribute to general development activities, through community trust funds, micro-finance schemes, small business programs, and the education of young women. One significant outcome of New Zealand’s RSE program is that some Pacific communities are nominating a number of workers at a time and encouraging them to commit a portion of their wages for community development projects. There are examples, such as the Lapaha Town Council in Tonga and the Lolihor Development Council in Vanuatu where recruitment of seasonal workers is being coordinated by communities as well as individuals and families. These programs create the opportunity to build people-to-people links between Australia and its nearest neighbours.



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