

**REPUBLIC OF VANUATU**

**EMPLOYMENT ACT [CAP 160]**

**Seasonal Employment Agency Regulation**

**Order No. 13 of 2007**

In exercise of the powers conferred on me by section 77A of the Employment Act [CAP 160], I, Honourable George Wells, Minister of Internal Affairs, make the following Regulation:

**1 Interpretation**

For the purposes of this Regulation:

**Act** means the Employment Act [CAP 160];

**agent** means a person who is a holder of a valid current employment agency licence;

**NZIS** means the New Zealand Immigration Services;

**RSE** means Recognized Seasonal Employer;

**seasonal employment** means a seasonal employment in New Zealand.

**2 Prescribed Application form for a seasonal employment agency licence**

For the purposes of paragraph 65(2)(a) of the Act, an application for a seasonal employment agency licence must be made in the form as set out in the Schedule to this Regulation.

**3 Requirements for arrangement and placement of a person for seasonal employment**

- (1) An agent must not:
- (a) register a person for seasonal employment if that person has provided the agent with false information, unless the person has corrected the information within a period specified by the agent;
  - (b) arrange for the placement and recruitment of a person for seasonal employment who has obtained a qualification from a recognized university or tertiary institution.
- (2) An agent must require a written reference from a Chief or a Church Leader from a person applying for seasonal employment.

**4 Selection of a person or persons for seasonal employment**

- (1) An agent must ensure that it carries out a fair and transparent selection process in selecting a person or persons for seasonal employment.
- (2) In addition to other criteria to be used for screening applicants for seasonal employment the following criteria must be met by the applicant:
- (a) a person must be of an age ranging from 21 years or older;
  - (b) a person must provide a medical certificate from a doctor concerning the status of their health condition;
  - (c) a person must provide a police clearance on any criminal record;
  - (d) a person must provide information, if any, on any previous overstay in another country, deportations, removals etc;
  - (e) a person who is married must provide a written consent of his or her spouse for his or her placement and recruitment on seasonal employment;
  - (f) a person must provide a character reference from someone who is perceived to be of high standing in his or her community, church or employment.
- (3) An agent must consider the RSE work policy requirements when screening applications.
- (4) If an RSE names a particular person for seasonal employment that worker must be given the priority to be placed and recruited in that capacity. If the person has not

fulfilled the requirements as set out in sub clause (2), the agent must inform the RSE of that fact. However the RSE can continue to recruit that person for seasonal employment.

## **5 Seasonal Employment Agreement**

- (1) A RSE is to make the final decision to offer employment and is to be the authority who will sign any seasonal employment agreement with the agent and the person.
- (2) An agent has to ensure that a person understands the content of his or her employment agreement before he or she signs the agreement.
- (3) An agent must advise the person that he or she is entitled to get independent legal advice if they decide to do so elsewhere.

## **6 Pre-departure orientation**

- (1) An agent must ensure that a pre-departure briefing takes place for every person offered employment by the RSE.
- (2) The agent must maintain a copy of the information covered in the pre-departure briefings.
- (3) Pre-departure briefings must cover the following topics:
  - (a) type of worker employed to do;
  - (b) tax information;
  - (c) bank accounts;
  - (d) accommodation arrangements;
  - (e) anything specifically requested by the RSE;
  - (f) contact details in an emergency;
  - (g) contact details for a worker where a dispute arises;
  - (h) remittance avenues;
  - (i) available services to assist the worker meet obligations in Vanuatu while overseas;
  - (j) payment of wages and arrangements for savings;

- (k) travel arrangements (for example who will meet them at airport, or how to transfer to the next flight, or how to get to the respective accommodation from airport);
- (l) if a worker transfers to another RSE that worker must inform the agent;
- (m) arrangements for food;
- (n) medical services in cases of illness;
- (o) general weather information in New Zealand;
- (p) the importance of personal hygiene and health;
- (q) the worker's obligations while in New Zealand;
- (r) opportunities for educational development (where available);
- (s) social activities (optional) that workers can participate in while in New Zealand as ambassadors of Vanuatu.

#### **7 Work visa application**

- (1) An agent must inform a worker that he or she must complete this process of applying for and obtaining a work visa.
- (2) If an agent assists the worker the agent must:
  - (a) ensure that all other documentation and requirements as stipulated by the NZIS (police certificate, medical certificate etc) are in order before applying for visas where they undertake to provide immigration assistance;
  - (b) explain the application form to the worker so that the worker fully understand its contents;
  - (c) must declare in the application form that they have assisted the worker in responding to questions in a visa application form.
  - (d) provide the worker a receipt for any fees paid by the worker specifying what those fees were for.

## **8 General requirements for compliance while on seasonal employment**

- (1) An agent must ensure that workers understand their obligations to return home at the end of their employment.
- (2) An agent must explain New Zealand's immigration requirements to a worker (for example: how to read and understand the visa put in his or her passport).
- (3) An agent must ensure that a worker understands their obligations for savings to be remitted to Vanuatu.
- (4) An agent must ensure that a worker understands that poor work performance and unacceptable behaviour will not be tolerated and will result in termination of the worker's participation in the programme.
- (5) A worker who behaves in an unacceptable manner will not be allowed to participate in the programme for a period of five years.
- (6) A worker who does not remit savings to Vanuatu will not be allowed to participate in the programme for a period of three years.
- (7) An agent who does not comply with RSE policies and regulations will not be allowed to participate and register as a RSE agent.

## **9 Administrative records**

An agent must keep a record of the following information:

- (a) the names of the people registered with their agency;
- (b) the names of the workers who have secured seasonal employment and details of the type of employment (for example: the location of the employment);
- (c) a copy of all documents signed by the worker (for example: employment agreement, consent to deductions etc);
- (d) the departure and return dates for any workers for whom they have secured seasonal employment;
- (e) the date of a pre-departure seminar attended to by the worker with his or her signature certifying his or her attendance at that seminar;
- (f) copies of all money transactions made (for example: receipt books etc);
- (g) a copy of all information covered in the pre-departure briefings.

**10 Role of the Commissioner of Labour**

(1) The Commissioner is to:

- (a) communicate to all registered agents the names and addresses of licensed New Zealand RSEs;
- (b) inform licensed agents of any updates to New Zealand's RSE Work policy when they are informed by New Zealand of such updates;
- (c) make available copy of policy guidelines and regulations to licensed agents;
- (d) participate in the briefing of all departing workers;
- (e) draft and disseminate information throughout the country on the operation of New Zealand RSE Work Policy;
- (f) regularly update the public through various means (media, chiefs, provincial governments) on the names of registered agents, and other relevant information pertaining to the scheme;
- (g) consult regularly with the New Zealand High Commission on any matter that may impact New Zealand's RSE Work Policy;
- (h) engage in generic marketing of Vanuatu as a source of labour;
- (i) compile information on RSE agents and recruited workers in a central database covering the following information:
  - (i) name of agent;
  - (ii) location of head office and branch offices;
  - (iii) mailing addresses;
  - (iv) business information details (license, VFSC and other such details);
  - (v) operating procedures and other details;
  - (vi) RSE employer;
  - (vii) number of workers per RSE employer;
  - (viii) details of workers;

- (j) provide the Minister or the Director General with any information on the scheme that he requests.

**11 Monitoring and compliance**

(1) The Commissioner of Labour is to:

- (a) work with agents to ensure agents adhere to these regulations;
- (b) respond to complaints from any person concerning a licensed agent in a timely manner through an investigation;
- (c) respond to complaints from any person concerning any activity which contravenes these Regulations and arrange to refer the matter to the Police.

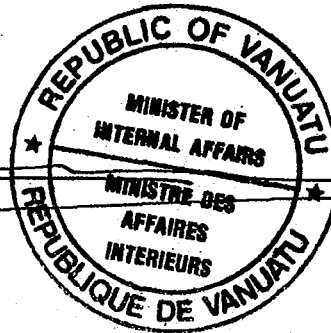
(2) The Commissioner of Labour may revoke an expressed permission for placement and recruitment of persons for seasonal employment in a licence issued under subsection 65(2A) of the Act, if it appears to the Commissioner that an agent has failed to comply with a provision of these Regulations.

**12 Commencement**

This Regulation commences on the date on which it is made.

Made at Port Vila this 19<sup>th</sup> day of APRIL 2007.

  
Honourable ~~George Andre Wells~~  
Minister of Internal Affairs



## SCHEDULE

### APPLICATION FORM FOR A SEASONAL EMPLOYMENT AGENCY LICENCE

**INSTRUCTIONS:** Type or print clearly  
Underline surname  
Provide complete mailing address  
If not applicable mark NA

**To: Commissioner of Labour**

I hereby apply for a seasonal employment agency licence:

1 Name of person/business/company applying: \_\_\_\_\_  
\_\_\_\_\_

2 Address of head office and branch office (if applicable):  
\_\_\_\_\_  
\_\_\_\_\_

3 Mailing Address including telephone, fax, and email: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4 Details of certificate of registration of business names (attach copy of the  
certificate and business licence)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



5 Please attach the following relevant information in relation to this application:

- (a) a copy of your proposed operations manual and procedures;
- (b) a copy of your proposed plans to recruit from Vanuatu;
- (c) a copy of your organization structure.

**Signature of applicant** \_\_\_\_\_

**Date of application** \_\_\_\_\_