

REPUBLIQUE DE VANUATU

BUREAU DE  
L'INSPECTION DU TRAVAIL

Sac Postal Prive 022  
PORT VILA  
Telephone: 33130 / 33135



REPUBLIC OF VANUATU

DEPARTMENT OF LABOUR &  
EMPLOYMENT SERVICES,  
PORT VILA  
Employment Services Unit  
Private Mail Bag 022  
PORT VILA  
Telephone: 33130 / 33135

28 November 2019

**Information Guide for Agents Recruiting Workers for the Recognised Seasonal Employer (RSE) and Seasonal Worker Program (SWP)**

Dear Recruiters

If you are a seasonal employment agent or you want to become one, this guide sets out what the Vanuatu Government requires of its agents as well as the workers you are responsible for. It also contains the licence application form and two Codes of Conduct – one which you must sign as part of the licence process and one which workers must sign before departing for overseas. The signed workers' Code of Conduct must be returned to the Department of Labour.

As the approval process is not a simple matter of submitting a form, I urge you to read through the documents in this pack and start preparing and collecting documents as soon as possible. **Applications are due by 31 December 2019** so that decisions can be made as close to the end of January 2020 as possible. Late applications will not be accepted. They must be accompanied by the application fee of VT10,000 per programme and receiving country.

This year the selection committee will be very focused on ensuring our agents and workers can represent Vanuatu well. The standards and expectations of agents are attached. We are also seeking to reduce the number of agents. Accordingly, applicants are required to:

- Provide proof of contract(s) with approved employers in the receiving country.

To streamline the process, licence assessment will be in two stages:

1. Assessment based on the papers you submit (please note that incomplete applications will not be accepted):
  - a. Licence applications that **clearly meet** the requirements on paper will be recommended for approval to the Licensing Panel by the Commissioner of Labour (COL). This includes a requirement that the Department of Labour (DOL) has received no complaints about the agent or their sub-agent (team leader, consultant) about charging workers for a job (this is illegal under the Seasonal Employment Act). A list of these agents will be provided to the Licensing Panel.
  - b. Licence applications that **clearly do not meet** the requirements – e.g. you are unable to demonstrate that you have a solid agreement with employers and/or the systems and experience to be an agent; and you cannot provide references from employers. These will be submitted to the Licensing Panel with a recommendation **not to approve** your application.
2. Applications that raise issues, e.g. where the DOL (and/or the Police) have received complaints about an agent or an associated sub-agent or consultant charging workers – either before or after their return – will require the applicant to have an interview with the panel.

You will be informed of the results of the Commissioner's recommendation before the Licensing Panel meets. If you want a review of the Commissioner's initial recommendation you can:

- Apply to the Commissioner in the first instance but you will need to provide **new information**. This information must not have been available at the time you provided your application.

We need everyone to work together to ensure Vanuatu agents and workers have a great reputation. The better we perform; the more employers will look to Vanuatu for new workers.



**Murielle Melténoven**

Commissioner of Labour  
Vanuatu Department of Labour  
mmetsan@vanuatu.gov.vu

Contact for advice:  
Employment Service Unit  
Department of Labour  
Private Mail Bag 9022,  
Port Vila, Vanuatu  
Phone +678 29937

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**APPLICATION FOR SEASONAL EMPLOYMENT LICENCES**

**INSTRUCTIONS:** Type or print clearly (typing is preferred; this Word document is editable)  
Underline surname  
Provide complete contact details  
If not applicable mark NA

**Personal Details**

Countries applying for: (Australia, New Zealand or both)	
Full name of business/company	
Full name of applicant	
Postal address of Business or Applicant	
Phones	Mobile: Landline:
Email address	
Are you a registered business in Vanuatu under the Vanuatu Financial Services Commission?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Business registration number (also attach Certificate of Registration if applicable)	

**Skills and Experience**

Have you recruited workers for seasonal work before? <i>If yes, please list the number of years</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you been a seasonal worker yourself?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please list all the overseas approved employers that you worked with or for.	
How many workers will you send overseas in 2019?	

How many workers do you expect to send to each country in 2020?	New Zealand _____ Australia _____
Describe your recruitment process – how do you find workers and how do you select them?	
If you use a team leader to recruit for you, or accept workers through “consultants” or other sub-agents, please provide their names	
Describe your process for preparing workers to work overseas (include pre-departure briefings, arrangement of documentation etc)	
Describe your experience with and understanding of employment contracts	
From which province/s and villages do you expect to recruit workers?	
Describe your disciplinary process – that is, if workers or employers make complaints about your workers	
What computer skills do you have?	

**Resources**

What business activity do you operate now or have you operated in the past?	
What business premises, resources and equipment do you have?	
What finances do you have to start up an agency and/or to operate one? Attach your financials for the latest year or bank statements)	
Please provide proof that you have an office set up, internet access and business card to market your business. Attach photograph of your premises	

## Additional Documents

The following documents must be submitted along with this signed and fully completed application:

1. **Proof of your identity**, as the director, manager or CEO of the applying agency. Acceptable proof of your identity consists of *either*:
  - a. A certified copy of the photo page of your passport
  - b. A certified copy of your birth certificate
  - c. National Identification document
  - d. VNPF ID card
2. **Certificate of Registration of Business Name**. Note that an "overseas business or company" that is incorporated outside Vanuatu, whether or not it is currently registered in Vanuatu, must be registered with the Vanuatu Financial Services Commission for the purposes of holding a seasonal employment licence.
3. **Police clearance** issued by the Vanuatu Police Force, Headquarters, valid for one year.
4. Originals of signed **good character references** and **confirmation of business capacity** from independent persons of excellent reputation such as community or business leaders, President Council of Chiefs, and Church Ministers and Pastors.

References from family members and relatives are **not** acceptable as they are not independent sources.

5. Originals of **bank statements and statements of finances** confirming the type and level of financial resources you have available to start up and/or operate the agency.
6. Letter from your **New Zealand and/or Australian approved employer/s** confirming your engagement with them.
7. Copy of your office manuals describing the recruitment process.
8. Application fee, 10,000 Vt; 20,000 Vt if applying for licences in both Australia and New Zealand

## INCOMPLETE AND LATE APPLICATIONS WILL NOT BE ACCEPTED

**Persons currently serving as a national or provincial politician or in a leadership role in the public service are not eligible to be a licensed agent as they would have a potential conflict of interest with their official role, as described in Vanuatu's Leadership Code.**

## Declaration

Please tick boxes below.

- I have read and understood the *Duties of Licensee/Permit Holder* and *Worker Selection Standard (attached)*.
- I do not charge workers for any services I provide or to obtain work.
- I do not demand a payment from workers when they return from seasonal work.
- I do not require workers to work for me or my company or family members for free, or less than the minimum wage, in return for seasonal work.
- I have not received a fee from any consultants or sub-agents for finding or recruiting workers for me or my company.
- I comply with the requirements of agents listed in Part 3 of the Seasonal Employment Act 2007.
- I do not have any conflicts of interest under the Vanuatu Leadership Code, nor am I likely to have any in the coming year.
- Nobody working in my agency has a conflict under the Leadership Code.
- I declare that the above details are true and complete to the best of my knowledge.
- I am aware that if this application contains false information, under s 15 of the Seasonal Employment Act No.23 2007, I am liable, upon conviction:
  - a. in the case of an individual – by imprisonment for not more than one year or a fine not exceeding VT1,000,000, or both; or
  - b. in the case of a body corporate – by a fine not exceeding VT 2,000,000.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Applicant Name (please print) \_\_\_\_\_



### Code of Conduct for Recruiters of Migrant Labour in Vanuatu

27 November 2019

The Vanuatu government appreciates the important role recruiters of migrant labour play in facilitating decent work opportunities for ni-Vanuatu people. To ensure Vanuatu's reputation for the excellence and integrity of its recruiters, the following Code of Conduct has been developed and endorsed by the Tripartite Labour Advisory Council (a body recognized under Section 1 of the Employment Act).

The Department of Labour is responsible for licensing and regulating recruiters. The Code of Conduct requires recruiters to comply with the law and their obligations under the Seasonal Employment Act No. 23 of 2007.

Please tick each statement to show you have understood the requirement.

- My workers do not pay me for my recruitment services, or for obtaining a job overseas
- I pay my team leaders for their assistance
- My workers are not stood down for making complaints, including against me, or refusing to pay me for a job
- I do not expect workers to give me a gift or "thank you"
- I ensure that any complaints are investigated fairly
- I report incidents and Stand Downs to the employer and Department of Labour as soon as I am aware of the incidents
- I provide workers with written contracts and ensure they understand them
- I ensure that all references provided by workers are genuine and current
- I do not hold on to workers' passports or identification documents
- All my workers' data is stored confidentially
- I ensure my workers with a comprehensive pre-departure briefing and ensure they set achievable objectives for using their money on their return
- I ensure workers have an orientation on arrival
- I attend agent meetings called by the Department of Labour when requested
- I follow the Department of Labour's guidelines regarding recruitment practices and avoid favouring family for jobs
- I maintain excellent records and provide complete spreadsheet information
- All worker documentation is submitted to the Department of Labour for screening at least 10 working days before planned departure.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Business: \_\_\_\_\_



**Kod blong Kondak blong Vanuatu Maegren Woka**

27 November 2019

Taem yu wok ovasi blong shot taem hemi givim yu janis blong sevem mane mo karem olgeta skil blong hemi yu, taem blong yu, komuniti blong yu mo Vanuatu.

Kod ia i givimaot wanem Dipatmen blong Leba i wantem long olgeta ni-Vanuatu we oli wok ovasi. Sapos yu folem Kod ia bambae i mekem se employa i gohed blong askem yu mo olgeta narafala ni-Vanuatu woka blong kam stap wok bakegen.

Plis ridim Kod blong Kondak ia mo saen daon long peij ia.

Mi, \_\_\_\_\_ (nem) bae mi:

*Plis tikim boks*

- Tritim evriwan wetem rispek
- Givim tru infomesen long ejen/ripresentativ mo employa blong mi
- Go long olgeta pri-dipatja brifing
- No pem eni fi o wok fri nomo blong ejen
- No livim wok ples taem mi no letem employa/ejen o Dipatmen blong Leba i save
- No alaoem alkohol mo drags blong spolem fasin blong wok blong mi mo drink alcohol long olgeta pablik ples
- Folem olgeta loa blong kaontri we mi wok long hem
- No gat narafala rilesenship afea taem mi stap tekem pat long program ia, hemi spos mi maret o mi gat wan gelfren/boefren
- Bae mi stap folem nomo period we oli givim long kontrak blong mi afta mi kambak long Vanuatu
- Mi undastandem se sipos wan komplem oli mekem againsem me, mimi kat raet blo ansarem mo givim side story blo mi
- Mi andastandem tu se mi save mekem komplem i go long Koantri Laesen Ofisa taem mi stap ovasi, o mekem komplem i go long Dipatmen blong Leba long Vanuatu, i long National Vanuatu Workers Yunion blong olgeta Wokman sipos eno employa o ejen i brekem olgeta tem blong kontrak o reat blong mi

Saen: \_\_\_\_\_

Deit: \_\_\_\_\_

## Appendix 1: Migrant Labour Disciplinary Process

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November 2019

### MIGRANT LABOUR DISCIPLINARY POLICY

#### **Introduction**

1. Under s 27 (3) of the Seasonal Employment Act 2007 (SEA), the Commissioner of Labour (CoL) may issue advisory guidelines. This disciplinary policy falls under that section. It has also been endorsed by the Tripartite Labour Advisory Committee (TLAC).
2. This policy covers conduct that has occurred in the receiving country. Domestic problems must be resolved within families, by chiefs, pastors or the Vanuatu courts<sup>1</sup> before a worker leaves Vanuatu.
3. The Employment Services Unit (ESU) maintains a database of workers' names whose behaviour has been deemed inappropriate in terms of Section 24 (2) of the Seasonal Employment Act 2007, and/or damaging to Vanuatu's excellent reputation for migrant labour.
4. The ultimate consequence for breaching the Migrant Worker Code of Conduct is to be stood down or banned from participating in a migrant labour programme. In the event a worker is stood down they may not participate in a programme until their name is removed by the ESU from its database.

#### **Definitions**

**Stand Down** A measure taken by ESU to penalise a worker who has been validly reported by the Team Leader, a Licensee, an Employer's Representative or an Employer, for tarnishing Vanuatu's reputation overseas. A worker can be on Stand Down for 1 to 5 seasons depending on the nature and seriousness of their case. The duration of the Stand Down is categorised below.

**Ban** A worker will be banned from ever again participating in migrant labour schemes if their misbehaviour is considered serious as described in paragraph 9 below. A worker who reoffends after being reinstated from Stand Down will automatically be banned.

**Stand Down and Ban List** A database that is controlled by ESU containing names and relevant details of workers who have been stood down or banned.

**Reinstatement** When a worker is allowed to participate again in the scheme after serving their penalty.

#### **Reasons for taking disciplinary action**

5. A worker may be stood down for any one of the following offences:
  - a. Wilful damage to property
  - b. Repeated bad or disorderly behaviour (e.g. swearing)
  - c. Alcohol abuse and substance abuse
  - d. Bad attitude towards employer or in the workplace, refusal to work and/or deliberate underperformance

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<sup>1</sup> A worker who faces court action while overseas, or who has failed to comply with a court order, will not be allowed to travel until the matter is resolved.

- e. Violence or causing injury or harm to another person
  - f. Involvement with overseas Police through any activity deemed to be illegal or of a damaging nature (including, but not limited to shop-lifting, theft, driving offences)
  - g. Being a disruptive and negative influence on the workplace productivity or team effectiveness
  - h. Having been declined a visa by the immigration authorities in the receiving countries
  - i. Any other activity deemed by the Department of Labour to be damaging to Vanuatu's reputation as a labour sending country.
6. Stand Down applies to the season following the season in which the worker has participated. For example, if a worker returned from participating in the scheme in the 2019-20 season and their behaviour was deemed inappropriate, that worker may be stood down for the whole 2020-21 season (equivalent to a one year Stand Down) or more.
7. Workers cannot be stood down for legitimately raising complaints about employers, agents, team leaders or representatives. They may also not be disciplined for raising complaints about living or working conditions or for seeking help from the Vanuatu DoL, or relevant in-country authorities.
8. The DoL makes the decision to put a worker on the Stand Down List, and for how long.
9. As a guide, workers may be stood down for the following periods of time:

Offence	Period of Stand Down
Deliberate poor productivity <sup>2</sup> Failure to board a flight to the receiving country <sup>3</sup> Other misbehaviour <sup>4</sup>	1-2 years
Repeated difficult to manage misbehaviour Damage to property	3-4 years
Fighting Affairs Sexual assault Abuse of alcohol Use of drugs Being sent home by the employer	5 years
Fraud and falsification Theft Drunk driving Reoffending after Stand Down & reinstatement Involved with NZ/Aust Police/Courts	Ban

### Responsibilities of recruiters (agents, permit-holders)

10. Recruiters should inform the ESU immediately of any cases where, after investigation and formal warnings, they believe ESU disciplinary action is warranted. They must also immediately inform the ESU if a worker is sent home.

<sup>2</sup> Workers should not be stood down for poor productivity unless there is a deliberate and continued pattern of behaviour (e.g. excessive sick leave, arriving late, taking unscheduled breaks). Other, more appropriate, roles should be considered for the worker first. If these are not available, the worker should be able to apply to another agent or recruiter who may have more appropriate roles.

<sup>3</sup> Failure to make a flight to the receiving country may result in a stand down or the worker may be required to pay additional costs. This is at the employer's discretion.

<sup>4</sup> Other misbehaviour might include repeated complaints from fellow team members and/or employers about failure to keep facilities tidy, cleanliness, smoking inside accommodation, failure to adhere to farmer's rules, failure to work effectively as a team member despite warnings

11. When dealing with complaints about worker behaviour, recruiters must undertake a fair process. This means:
  - a. Giving the worker written notification of the allegations
  - b. Allowing the worker to respond to the allegations either in writing or at a meeting
  - c. Allowing the worker to have a support person present at any meeting
  - d. Ensuring there is evidence in support of the allegations – rumour and hearsay is not sufficient.
12. Before recommending a Stand Down, recruiters should, unless the conduct is very serious (e.g. deserving of a ban or a five year Stand Down):
  - a. Give workers an oral warning
  - b. Discuss the problem with the worker and develop a plan for how they will improve their behaviour.
13. When reporting the matter to the ESU, recruiters must:
  - a. Provide a clear description of the offending behaviour and its impact on the team and Vanuatu's reputation
  - b. Provide a description of the investigation and disciplinary process undertaken
  - c. Provide evidence of the allegations
  - d. Provide reasons for their recommendations.

### **Reinstatement**

14. A worker may be removed from the Stand Down and Ban database when the worker has completed the Stand Down period and the Department of Labour and employer are satisfied that the worker has amended their ways and will behave well in accordance with the Workers' Code of Conduct
15. Otherwise, when a worker is allowed to participate again in the scheme after serving their penalty, they are removed from the database.

### **Communications**

16. In the event a worker wishes to question or challenge a listing, they should in the first instance talk to the Senior Labour Officer, Migrant Labour who has delegated authority to make decisions. In some limited circumstances it may be possible for a worker to appeal the SLO's ruling to the Commissioner of Labour.
17. Should ESU identify that a worker who has lodged a Visa Application is on the Stand Down and Ban list, the ESU will notify the employer or recruiter they are not permitted to take up the job. It is then up to that employer or recruiter to notify the worker and seek a replacement worker if they wish.
18. The Stand Down and Ban list is not made publicly available. This means recruiters must send their lists of proposed workers to the ESU **before** applying for visas so these can be checked. The ESU will check these within two working days of receipt.

## Appendix 2: Licensed Agent recruitment process

**Choose Licensee** A ni-Vanuatu Agent is a company/individual that has gone through the Licencing process and has been approved by the Commissioner of Labour under Section 8 of the Seasonal Employment Act to carry on the business of a seasonal employment agent.

The licensee must meet their obligations under Part 3 of the Act (see Appendix 4 attached).

**Receive employer request** The employer contacts an agent and gives them the employer's selection requirements and all relevant information so the Licensed Agent can consider the source and right type of people for the task.

The agent will recruit new and return workers on behalf of the employer, and in line with the *Worker Selection Standards* (attached). This must include interviewing and verifying the suitability of potential workers.

The agent will assist the worker with completing the application, arranging birth certificate, passport, medical, police clearance, photo etc.

**Assist agent recruit** The Agent will advise the ESU of relevant information i.e., date of departure, date all complete applications will be with the ESU for screening, etc.

**Meet Worker Selection Standards** The Commissioner has promulgated the *Worker Selection Standards* urging recruiters to employ only those workers who meet the necessary standards of productivity, work ethic, good character, manageability, physical health and capacity, away-from-work behaviour, and communications.

The employer must ensure recruiters are trained to apply the standards, especially **verifying** the selected workers with Council of Chiefs and Pastors to avoid unsuitable workers and favouritism/nepotism/conflict of interest.

**Source through village, Church communities** The Agent should pass the names of likely workers to the Council of Chiefs/Pastor to confirm the workers' suitability with the *Worker Selection Standards* and to ensure that there are no issues i.e., drinking, misbehaviour, criminal activity, family issues etc.

Some village communities and churches wish to be referred directly to interested Agents in order to facilitate groups of workers being employed from those communities.

**Source through Work Ready Pool** A **Work Ready Pool** is held by an agent, made up of candidates who have registered their interest and have support from Chief or Pastor to be available for referral to any employer seeking workers.

The recruiter will have their system for registering candidates and will require them to submit a reference from a person of standing in the community, e.g. their Chief, Pastor or past employer, and be interviewed to confirm their suitability.

A recruiter will maintain their WRP up to date and choose excellent candidates from the list. Each person in the WRP should be reviewed annually and asked to re-register so that their merits are up to date for any employer.

**Source through Agent** Because most workers return to their employer in the next season, the Agent will source the return workers and new workers from their usual sources.

The agent must balance the desirability of enabling communities and churches to form work groups with in-built leadership and character, while being careful to avoid excessive favouring of their own families, wontok and nepotism.

**Recruit** The Agent conducts interviews, explains the Employment Agreement in a simple language that can be understood by the selected worker and completes the visa application.

**Collate and send to ESU** The Agent is responsible for the collection and collation of the **complete, up to date and accurate** set of documentation required for visas and:

- i. Assists workers to apply to the Immigration Dept for a passport, Vanuatu Police for a Police Clearance, and approved Medical Doctor/Radiologist for Medical/X-Ray examinations. Note for Australia x-rays are valid for 12 months from time of clearance (so workers arriving the next season may not require x-rays), and NZ allows X-rays current for two years.
- ii. Assists inexperienced workers in fully completing visa forms and lodging electronic visas (Immi).
- iii. Delivers all documentation to the ESU office for review and screening, no later than two weeks **before** date of departure.

If an application is incomplete, e.g., gaps, unsigned, no medical, photo etc. it will be returned immediately by ESU to the Agent for completing and/or correcting. The agent will liaise with the relevant immigration authorities where significant issues arise.

## **Appendix 3: Role and Capabilities of Licensed Agents for Seasonal Employment**

### **Background**

The Vanuatu Government has legislated under the Seasonal Employment Act 2007 for the Commissioner of Labour to administer arrangements for seasonal employment overseas including the role, duties and licensing of agents and direct recruiters involved in seasonal labour. These currently include the Recognised Seasonal Employer Scheme (RSE) and Seasonal Worker Program (SWP). The following are the requirements for agents.

### **Annual Licence**

Only agents who have applied for and been assessed by the Commissioner of Labour as meeting these requirements are granted a **Licence to Recruit** under Section 8 which must be renewed annually through the Employment Services Unit, Department of Labour, Vanuatu. In practice, licences are awarded by a Licensing Panel. Note that separate licences are required for each country – at this stage, Australia and New Zealand.

*Persons currently serving as a national or provincial politician or as a public servant are not eligible to be licensed agents as they would have a potential conflict of interest with their official role (see Vanuatu Leadership Code).*

### **Role and Responsibilities of Licensed Agents**

- i. Complying with the provisions of the Seasonal Employment Act No 23 of 2007 particularly the duties and requirements prescribed for licensees.
- ii. Promoting their agency and the ni-Vanuatu workforce to approved employers and industries in Australia and New Zealand with the aim of securing suitable employment for workers. Also, explaining their role and responsibilities to Island communities for obtaining opportunities for seasonal employment.
- iii. Selecting suitable and enough workers meeting Section 20 (3) and Vanuatu's Worker Selection Standards for productivity, work ethic, good character, manageability, physical health and capacity, away-from-work behaviour, and communication, with or on behalf of the employer, and by fair and transparent selection without risk of favouritism and corruption.
- iv. Providing workers with adequate explanation of employment agreements and workers' rights and representing their issues and questions to the employer about those rights and pastoral care.
- v. Meeting all requirements for the quality and completeness of each work visa application and associated birth certificate, medical and x-ray examinations, Police clearance and passport issue.
- vi. Delivering and/or participating in quality and timely pre-departure orientation for approved workers.
- vii. Complying with the requirements of the Department of Labour and the Seasonal Employment Act 2007 for promotion, recruitment, selection, employment agreement, pre-departure briefing, work visa, pastoral care, work performance, and information collection and records.
- viii. Assisting the workers with advice and support as part of pastoral care while overseas and in the Islands after they have returned home waiting for the next season.
- ix. Collecting information from selected workers as required by the Department for Vanuatu's seasonal employment data records.

## **Principal Requirements to be a Licensed Agent**

### **(i) Integrity**

- Be well known for having a reputation for full honesty and complete integrity in their business and personal dealings, including having no criminal record as confirmed by the Commissioner of Police.
- Having no record of substantiated complaints for charging workers for jobs, contrary to the Seasonal Employment Act.

### **(ii) Skills and Experience**

- Have had management experience in running or supporting a small business activity and conducting normal business practices.
- Have marketing and negotiation skills sufficient to represent Vanuatu effectively with English-speaking employers, and to successfully negotiate and maintain employment arrangements overseas for workers.
- Demonstrate human resources skills and some experience in recruiting or selecting or supporting staff.
- Have proven organisational and administrative skills for successful client relationships, planning and action, financial management, and maintaining processes and records.
- Have communications skills, English-speaking ability, and competence with modern tools of business communication such as the Internet, email, scanning, phone and fax.

### **(iii) Resources**

- Be a registered company in Vanuatu or an individual who has an established relationship with an approved NZ or Australian employer or has a coherent strategy for effectively marketing to approved employers, and a sound operational plan for delivering employment services.
- Have enough finances and resources to successfully start up their agency and meet their responsibilities, and to expand operations as required to meet increased demand.
- Able to demonstrate they have the networks and relationships in Vanuatu in order to fulfill outreach for fair and equitable opportunities for workers.
- Have the necessary office equipment and resources including administrative processes, computer and basic software packages, phone and fax equipment, and transport.

### **(iv) Knowledge**

- Have adequate understanding of the needs of the approved employers and of their worker selection criteria, and of the seasonal labour schemes in Australia and/or New Zealand, e.g., not permitted to charge workers fees, visa requirements.
- Have adequate understanding of the pre-departure needs of workers in preparation and training and able to meet these needs in partnership with the ESU and approved employers.
- Have adequate understanding of employment law and workers' rights enough to explain employment agreements to workers and represent their issues and needs to approved employers.

#### **Appendix 4: Recruitment guideline**

Inconsistent worker selection quality has been a contributing factor to some episodes of misconduct and uncooperative behaviour causing pastoral care issues and stand-down associated with some workers. Experience has shown the following factors are causes of selection weaknesses:

- (i) **Favouritism.** Picking the person, not the qualities, or targeting buddies and family members to the exclusion of more suitable persons warranting participation in employment.
- (ii) **Not knowing or checking out the worker.** Not interviewing or attempting background checks in the community, so I expect consultation with chiefs, pastors, employers or others with standing in the community to occur before selection.
- (iii) **Hard to say “no” to family and friends.** Unable to make an objective assessment because of heavy family pressure on the recruiter seen as being in a position of power.
- (iv) **Team Leaders lacking skills.** Although a team leader may be suited to workplace leadership some may not have been trained by their employer in interviewing, assessing, selecting and rejecting candidates. The main responsibility rests with the employer and agent.

**‘At A Glance’ Worker Selection Standard – Expected Attributes of Workers and Team Leaders**

Attributes	Descriptions	Assess & Verify
<b>1. Productivity</b>	Willingness to work hard with effective output, meets both quality standards and targets, numeracy and decision making for output, reliable and consistent effort, confident with a variety of tasks, adjusts to changes in priorities and the optimum time for quality.	Work history, family and village farming. Check previous employers in Vanuatu. Personal goals and use of savings. Reputation for hard work.
<b>2. Work Ethic</b>	Has initiative and performs quality work, has personal goals for using savings, willing to work long hours, weekends, and night shifts, can be relied on to turn up on time for work, and is loyal to the employer and the people they work with.	Work history, family and employer. Check background. Village reputation. President, Council of Chiefs. Chief. Pastor. Community leader.
<b>3. Good Character</b>	Not been convicted of a crime or deported from another country, has reputation for good conduct privately and publicly, acts with honesty and integrity, respects others and their right to opinion, trustworthy, with good sense of right and wrong and acts appropriately in all situations.	Reputation for integrity & honesty. Personal values. Criminal record. Police Certificate. Local Police experience. President, Council of Chiefs. Chief. Pastor. Community leader.
<b>4. Team Player</b>	Cooperative in meeting work and behaviour requirements, pitches in to help others, puts team before individual, listens well and follows instructions, respectful of others and team standards of behaviour, communicates openly and rationally in conversation and when conflict arises, has positive attitude with fellow workers and the employer. Demonstrates self-control.	School and community reputation. Observed by others as cooperative team player. Helping and joining in positive activity. Open manner and conversation. Work history, and employer.
<b>5. Physical health and capacity</b>	Able to cope with the physically demanding work involved in harvesting crops in very hot, cold, or windy conditions, especially for long hours, weekends, and night shifts, and keeps up quality effort in demanding conditions.	Physical profile and stamina. Type of past work. Family farm. Work locations. Any health complaint in the last two years. Previous employer. Community.
<b>6. Away-from-work behaviour</b>	Conducts themselves as good role model for Vanuatu, brings credit to Vanuatu’s and employer’s reputations, complies with lawful and reasonable instructions of Vanuatu and their employer about private and public behaviour, has ability to leave family behind, law-abiding, no dependency on kava, cigarettes, alcohol or drugs and avoids anti-social behavior, fighting, arguing, dishonesty, abuse, extra-marital affairs and misconduct.	No record of frequent kava or alcohol drinking. Family & village reputation. Group and individual conduct. President, Council of Chiefs. Chief. Pastor. Community leader. Spousal support.
<b>7. Communication</b>	Speaks clearly and listens well, adequate English to understand oral and written instructions and explanations in English and fill out simple forms; conveys they understand what other person saying; asks questions to clarify; comfortable talking with people from other cultures; can express ideas or opinions constructively; raises an issue adequately.	Observation at interview. Body language positive. Open manner and conversation. Style of speaking and listening. Their use of English generally. Level of schooling & literacy.
<b>Team Leaders</b>	Respected for leadership abilities and personal integrity, confident to negotiate issues in calm and reasoned manner, good listener, enough spoken and reading English for the role, problem solver, handles conflict, doesn’t play favourites, has computer and phone skills.	Respected by team members. Reputation. Personal values. Style of speaking and listening. Their use of English generally. Observation at workplace. President, Council of Chiefs. Chief. Pastor. Community leader.

## **Appendix 5: Part 3 of the Seasonal Employment Act 2007**

### **PART 3 DUTIES OF LICENSEES AND PERMIT HOLDERS**

#### **19 General duties**

- (1) A licensee must not register a person for seasonal employment if the person has provided the licensee with false or misleading information, unless the person has corrected the information within a period specified by the licensee.
- (2) A permit holder must not directly recruit a person for seasonal employment if the person has provided the permit holder with false or misleading information, unless the person has corrected the information within a period specified by the permit holder.
- (3) A licensee must not register a person for seasonal employment who has obtained a qualification from a recognized university or tertiary institution, unless:
  - (a) the person is not employed; or
  - (b) the person has his or her employer's approval in writing to apply for seasonal employment.
- (4) A permit holder must not directly recruit a person for seasonal employment who has obtained a qualification from a recognized university or tertiary institution, unless:
  - (a) the person is not employed; or
  - (b) the person has his or her employer's approval in writing to be employed in seasonal employment.
- (5) A licensee or permit holder may require a written reference from a Chief or a Church Leader in relation to a person.

#### **20 Selection of a person for seasonal employment**

- (1) A licensee must conduct a fair and transparent selection process in deciding whether or not to register a person for seasonal employment.
- (2) A permit holder must conduct a fair and transparent selection process in deciding whether or not to directly recruit a person for seasonal employment.
- (3) The following criteria must be used by a licensee or a permit holder:
  - (a) the person must be at least 21 years of age;
  - (b) the person must provide a medical certificate from a doctor concerning the status of his or her health;
  - (c) the person must provide a clearance from the police in Vanuatu;
  - (d) the person must provide information, if any, on any previous overstay in another country, or any deportation or removal;
  - (e) if the person is married, the person must provide the written consent of his or her spouse to the seasonal employment;
  - (f) the person must provide a character reference from someone who is perceived to be of high standing in his or her community, church or employment;
  - (g) the person's record on any previous seasonal employment;
  - (h) such other criteria as are prescribed by the regulations.

#### **21 Seasonal employment agreement**

- (1) A seasonal employment agreement must be in writing.
- (2) A licensee or permit holder must:
  - (a) ensure that a person understands the content of the person's seasonal employment agreement before the person signs the agreement; and
  - (b) advise a person that he or she is entitled to get independent legal advice about the seasonal employment agreement at the person's cost.
- (3) As soon as practicable after a person has entered into a seasonal employment agreement, a licensee or permit holder must give the person a copy of that agreement.
- (4) The regulations may prescribe provisions which must be included in a seasonal employment agreement.

#### **22 Pre-departure orientation**

- (1) A licensee or permit holder must ensure that a pre-departure briefing takes place for every worker and maintain a copy of the information covered in the pre-departure briefings.
- (2) Pre-departure briefings must cover the following topics:
  - (a) the kind of work to be undertaken;

- (b) the payment of wages and arrangements for savings;
- (c) taxation information;
- (d) the arrangements for travel, accommodation and food;
- (e) medical services in cases of illness;
- (f) the worker's obligations while outside Vanuatu;
- (g) such other matters as the Commissioner determines in writing.

### **23 Work visa application**

- (1) A licensee or permit holder must inform a person that he or she must apply for and obtain a visa for his or her seasonal employment.
- (2) If a licensee or permit holder assists a person in applying for a visa, the licensee or permit holder must:
- (a) ensure that all requirements and other documents as stipulated by the relevant authorities in the country in which the seasonal employment will take place are in order for the person; and
  - (b) explain the application form to the person so that the person fully understand its contents; and
  - (c) declare in the application form that the licensee or permit holder has assisted the person in responding to questions in the application form; and
  - (d) provide the person with a receipt for any fees paid by the person specifying what those fees are for.

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

- (1) A licensee or permit holder must:
- (a) ensure that a worker understands his or her obligation to return to Vanuatu at the end of his or her seasonal employment; and
  - (b) explain to a worker the immigration requirements of the country in which the seasonal employment will take place; and
  - (c) ensure that a worker understands his or her obligation for savings to be remitted to Vanuatu; and
  - (d) ensure that a worker understands that poor work performance and unacceptable behaviour will not be tolerated and may result in termination of the worker's seasonal employment.
- (2) A worker who does not comply with his or her obligations under the seasonal employment program may not be allowed to participate again in the seasonal employment program for a period of five years.

### **25 Records**

- (1) A licensee or permit holder must keep a record of the following information:
- (a) in the case of a licensee, the names of the people registered for seasonal employment with the licensee;
  - (b) the names of the workers who have secured seasonal employment and details of the type of employment;
  - (c) a copy of any seasonal employment agreement and all other documents signed by any worker;
  - (d) the departure and return dates for any worker for whom the licensee has secured seasonal employment;
  - (e) the date of a pre-departure briefing attended by any worker with his or her signature certifying his or her attendance and all information covered in the briefing;
  - (f) copies of all financial transactions;
  - (g) such other information as is prescribed by the regulations.
- (2) If requested in writing by the Commissioner of Labour, a licensee must provide to the Commissioner within the time specified by the Commissioner copies of such of the records referred to in subsection (1) as the Commissioner requires.
- (3) A person who fails to comply with subsection (1) or (2) commits an offence and is liable on conviction:
- (a) in the case of an individual –to imprisonment for not more than one year or a fine not exceeding VT 1,000,000, or both; or
  - (b) in the case of a body corporate –to a fine not exceeding VT 2,000,000.

### **26 Licensee to display notice on place of business etc**

- (1) A licensee must display in a prominent place at each of the licensee's places of business a notice of:
- (a) the licensee's name and of the fact that the licensee is licensed to carry on the business of a seasonal employment agent; and

(b) the name under which the licensee carries on the business of a seasonal employment agent if the business is not carried on in the name of the licensee.

(2) The information referred to in subsection (1) must be clearly shown on a notice, advertisement, letter, agreement or other document made by or on behalf of the licensee in carrying on the business of a seasonal employment agent.

(3) A person who fails to comply with subsection (1) or (2) commits an offence and is liable on conviction:

(a) in the case of an individual –to imprisonment for not more than one year or a fine not exceeding VT 1,000,000, or both; or

(b) in the case of a body corporate –to a fine not exceeding VT 2,000,000.