

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

27 November 2019

Dear Direct Recruiters

Thank you for your continuing support of Vanuatu migrant workers. Your support is making a great difference for our workers, their families and communities.

The process for approving direct recruitment permits has changed this year. To improve our records, we would like you to complete the attached form and return it with the permit fee.

We also require you to sign the Code of Conduct for recruiters. If you use team leaders or representatives, a copy of this Code should also be signed by each of these people. Similarly, we expect all workers to sign and abide by the Code of Conduct for Workers (also attached). This has been translated into Bislama.

For your information, we have attached a copy of the Department of Labour's guidelines for recruitment and its disciplinary policy.

Please note that payment for your permit is required by 16 December 2019. If you have already paid for next year, your next payment will be required in December 2020.

Thank you for your co-operation. We look forward to working with you again in 2020.

Yours truly

A handwritten signature in black ink, appearing to read 'Murielle Meltenoven', written over a white background.

Murielle Meltenoven

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

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APPLICATION FOR PERMIT TO RECRUIT VANUATU WORKERS

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

Applicant Details

Country applying for	
Full name of business/company	
Full name of applicant	
Postal address of business or applicant	
Phones	Mobile: Landline:
Email address	
ATR or AAE reference	

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 Number of years _____
How many workers do you expect to recruit 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 or representative to recruit for you, please list the names and contact numbers of these people	
Please explain how your team leaders or representatives in Vanuatu are remunerated	
Please describe your pre-departure briefing process, including who conducts this	
From which province/s and villages do you expect to recruit workers?	
Describe your disciplinary process – that is, if you have problems with a worker	

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, 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) _____

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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 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: _____

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Kod blong Kondak blong Vanuatu Maegren Woka
November 2019

Taem yu wok ovasi blong shot taem hemi givim yu janis blong sevem mane mo karem olge 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 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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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 courts¹ 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)

¹ 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.

- c. Alcohol abuse and substance abuse
 - d. Bad attitude towards employer or in the workplace, refusal to work and/or deliberate underperformance
 - 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 ² Failure to board a flight to the receiving country ³ Other misbehaviour ⁴	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

² 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.

³ 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.

⁴ 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

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.
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.

Communication

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.

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Invoice: Direct Recruitment Permit

Item	Quantity	Unit Price	Total
Direct Recruitment Permit - 2020	1	20,000 Vt	20,000 Vt

Payable to: Government of Vanuatu

Payable by: 16 December 2019

Attention: Patrice Etienne Kuautonga, Vanuatu Department of Labour

Payment options:

- Vanuatu Ministry of Finance (please provide receipt to Department of Labour)
- Western Union
- cash (in person at the Vanuatu Department of Labour)

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Vanuatu Department of Labour: 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.** Whilst a team leader may be suited to workplace leadership some may not have been trained by their employer in the function of interviewing, assessing, selecting and rejecting candidates. The main responsibility rests with the employer as permit-holders or agents as licence-holders (some agents also use team leaders for recruitment).

Appendix 1: ‘At A Glance’ Worker Selection Standard – Expected Attributes of Workers and Team Leaders

Attributes	Descriptions	Assess & Verify
1. Productivity	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.
2. Work Ethic	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.
3. Good Character	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.
4. Team Player	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.
5. Physical health and capacity	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.
6. Away-from-work behaviour	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.
7. Communication	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.
Team Leaders	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.