



International
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Seasonal worker schemes in the Pacific through the lens of international human rights and labour standards

A summary report



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The PCCMHS programme is implemented by ILO, the International Organization for Migration (IOM), the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), and the Office for the High Commissioner for Human Rights (OHCHR) along with the Pacific Islands Forum Secretariat (PIFS) and the Platform on Disaster Displacement (PDD). The PCCMHS programme receives funding through the United Nations Trust Fund for Human Security and components of the programme are supported by the New Zealand International Development Cooperation Programme.

Foreword

In June 2021, the International Labour Conference adopted the Global Call to Action for a Human-Centred Recovery from the COVID-19 crisis, which encourages countries to put full employment and decent work at the heart of inclusive, sustainable and resilient recovery strategies.

The impacts and uncertainties of the COVID-19 pandemic have created significant challenges for the pursuit of decent work. One group that have been particularly affected are migrant workers, who have faced increased risks and vulnerabilities. These include – but are by no means limited to – reduced access to health services and social protection, uncertain accommodation, and limited access to justice. In some cases, such as with seafarers, migrant workers have been stranded in precarious situations for months at a time. Indeed, the COVID-19 pandemic has highlighted the critical importance of ensuring that policies and programmes protect the rights of migrant workers. One specific group of migrant workers that are very relevant to the communities and economies of the Pacific are seasonal workers, many of whom participate in labour mobility schemes with Australia and New Zealand.

It is commendable that in many key areas these seasonal work schemes are consistent with international labour standards relevant to migrant workers, and that the governments of Australia and New Zealand are proactively engaged in an ongoing process of strengthening the schemes, including maximizing their potential development impacts and minimizing risk of exploitation. The objective of this summary report is to understand how seasonal worker schemes in Australia and New Zealand align with international labour standards – both binding and non-binding – and to provide constructive recommendations for areas where the schemes could be more consistent with these standards. The findings and recommendations outlined in this summary report will be developed further in a more detailed technical report that is forthcoming.

It is hoped that the following analysis and recommendations will be considered by all stakeholders involved in defining policy and legislation relevant to seasonal worker schemes in the region, which have the potential to set an example of labour mobility best practice.

ILO has a constitutional mandate since 1919 to promote social justice, to develop international labour standards related to all facets and institutions of the world of work, and to protect all workers, including migrants, refugees, and displaced or stateless persons, irrespective of their nationality and migration status. In addition to this normative mandate, ILO's unique tripartite structure mainstreams engagement of governments, workers' and employers' organizations across programme activities, which are further supported by ILO's technical expertise.

On behalf of the ILO, I would like to take this opportunity to sincerely thank all our partners who supported the preparation and validation of this report through a tripartite process, as well as the independent experts Carmen Voigt-Graf and Sanushka Mudaliar who have taken these at times differing perspectives into account when writing and finalizing this report.

Safe labour migration is a critical strategy for sustainable development; one that can contribute to climate resilience when well-governed. Labour migration should be a choice, and not a substitute for creating decent jobs or mitigating climate change. The ILO Office for Pacific Island Countries stands ready to collaborate on any future efforts to promote the rights of labour migrants and strengthen the sustainable development impacts of labour mobility schemes as a key component of decent work. Such efforts are critical to achieving the goals set out in the ILO Global Call to Action for a Human-Centred Recovery from Covid-19.

Sincerely,



Matin Karimli
Director, ILO Office for Pacific Islands Countries

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Introduction

This report presents a summary of the forthcoming technical report on a 2020–21 review of **Australia’s Seasonal Worker Programme (SWP)** and **New Zealand’s Recognised Seasonal Employer (RSE) scheme**, which are available to citizens of Pacific Island countries (PICs). This review was carried out as part of the project “Enhancing Protection and Empowerment of Migrants and Communities Affected by Climate Change and Disasters in the Pacific Region”, otherwise known as the Pacific Climate Change Migration and Human Security Programme, led by the International Organization for Migration alongside the ILO, the Office of the High Commissioner for Human Rights, and the United Nations Economic and Social Commission for Asia and the Pacific, with the Platform on Disaster Displacement and the Pacific Islands Forum Secretariat. The review consists of two components. The first component is a legal review of the SWP and the RSE that considers the extent to which the policies and laws under which these schemes operate are consistent with international human rights standards, including international labour standards. The second component is a review of the two schemes in practice, particularly from the point of view of the seasonal workers, based on interviews with seasonal workers in four participating PICs – Fiji, Kiribati, Samoa and Vanuatu – and consultations with key stakeholders (see list in the Annex). Based on the legal review and the review of the schemes in practice, recommendations are presented for improving recruitment practices and labour standards, enhancing the participation of women and marginalized groups, and increasing the degree to which the schemes are consistent with international human rights and labour law. After summarizing the main findings of the technical report, the principal emphasis of this summary report is on the recommendations.

Recent and expected changes to the SWP and the RSE scheme

Data collection and validation for this report was undertaken in 2020 and 2021. While the report was being finalized, a number of new reforms and initiatives were announced relating to labour mobility schemes in Australia and New Zealand. In Australia, there were two significant developments. The new Agricultural Visa was announced in August 2021, and the Seasonal Worker Programme and the Pacific Labour Scheme were merged under the unified brand of the Pacific Australia Labour Mobility (PALM) scheme shortly thereafter. At the time of writing, the specific conditions of the Agricultural Visa were not yet clear. A review into the operating arrangements of the RSE in New Zealand was also ongoing.

The research summarized below was informed by the operating of arrangements of the SWP and RSE up until July 2021. It is therefore hoped that the proceeding analysis, which indicates specific areas where the RSE and SWP could be better aligned with both binding and non-binding international standards, will be viewed as a constructive contribution to potential future reforms to labour mobility schemes in the region.

It appears that some of the report’s recommendations align with recently announced policy and legislation reforms. For example, on 23 November 2021, further details to PALM were announced, including the significant update that “seasonal workers will be able to move between employers more easily, to better meet workforce needs and maximise their earnings. These arrangements will be subject to consent by workers and overseen by the Government, to ensure worker wellbeing is maintained” (Australia, Minister for Foreign Affairs 2021).

A recommendation along these lines remains in the report, particularly as the specific process for this has not yet been confirmed in the publicly available information on PALM. It is noted that the option to change employers appears to be a positive development in regard to minimizing exploitation risk, so long as measures are put in place to ensure consent is based on genuine choice between options and that workers have to ability to seek independent advice and the assistance of a union or advocate to negotiate contracts with new employers. Additionally, in November 2021, just before the publication of this report, the Fair Work

Commission ruled that Australian farm workers covered by the Horticulture Award 2020 and working under a pieceworker agreement must now be paid a minimum rate for each hour of work. The applicable minimum hourly rate for casual workers under the Award is currently 25.41 Australian dollars per hour (Australia, Fair Work Commission 2021). A recommendation along these lines remains in this report and it is noted that this ruling is a positive development for seasonal migrant workers in Australia that will make it easier to monitor the correct payment of wages under the PALM scheme.

Overview of the SWP and the RSE scheme

The SWP in Australia and the RSE scheme in New Zealand are the main seasonal labour migration programmes that provide restricted labour market access to workers from PICs. The schemes prohibit the permanent settlement of workers while respecting certain aspects of international labour and human rights law.

In 2007, New Zealand launched the RSE scheme to fill seasonal labour shortages in its horticulture and viticulture industries. Under the scheme, employers can apply for “Recognised Seasonal Employer” status and fill vacant seasonal positions with workers from Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. ¹ The annual cap has grown from the initial 5,000 to 14,400 in 2020 (New Zealand, INZ, n.d.-b).

The Australian Government implemented the Pacific Seasonal Worker Pilot Scheme (PSWPS) from 2008 to 2012. In 2012, the PSWPS was subsumed by the SWP, which initially allowed workers from eight PICs and Timor-Leste to work in the Australian horticulture industry for up to six months. In 2015, the annual cap was removed and Fiji joined the SWP as the tenth participating country (World Bank 2017). The SWP was subsequently expanded to the broader agriculture industry and the accommodation sector (in selected locations), as well as offering trials in the aquaculture, cotton and sugarcane sectors. In 2018, the Pacific Labour Scheme (PLS) was launched. This scheme enables Australian rural and regional employers in any industry to recruit low-skilled and semi-skilled workers from nine Pacific Island Countries and Timor-Leste for between one and three years (Australia, DFAT 2019). The PLS concerns non-seasonal workers and is not the direct subject of the technical report, though it is mentioned in relation to the SWP in some sections. In 2019, the Seasonal Worker Programme Regional Pilot (also referred to as the Worker Portability Pilot) was created. This operates in selected regions – Sunraysia (New South Wales/Victoria), Goulburn/Murray (Victoria), and Riverina (New South Wales), with Wimmera Mallee (Victoria) included in 2020 – and will continue until June 2022. Approved Employers participating in the Regional Pilot have “greater flexibility to move seasonal workers ... between farm placements during their visa period”. This feature is designed to “meet the workforce needs of smaller farmers with short harvest seasons and those with unpredictable picking periods” (Australia, DESE 2019a). A number of changes were made to the SWP in response to COVID-19. These are discussed below.

While seasonal worker numbers were considerably higher in the RSE than in the SWP in the early years, the gap between the two countries has been closing. The latest available data for Australia and New Zealand is for the 2019–20 season. In that season, over 10,000 Pacific seasonal workers moved to New Zealand and over 8,000 to Australia, with some countries – including Vanuatu, Tonga and Samoa – sending considerably more workers than others. ² Since their inception, the programmes’ participation rate has been heavily

¹ Recruitment from other countries is possible if employers have pre-established connections to these workers.

² Altogether, 11,152 workers arrived in New Zealand under the RSE scheme, including 10,239 workers from Pacific island countries (New Zealand, INZ, n.d.-a). A total of 9,824 workers arrived in Australia under the SWP scheme, including 8,298 from Pacific island countries (unpublished data provided by the Department of Foreign Affairs and Trade (DFAT)).

dominated by men. This is one reason why the inclusion (or lack thereof) of women and other marginalized groups receives specific attention in this review.

Methodology

Legal review methodology

The legal review analyses the policies and laws that guide the operation of the RSE and SWP and determines their consistency with selected international labour and human rights standards. The method applied to conduct this legal analysis involved first identifying the most relevant ILO Conventions and Recommendations, international human rights instruments, and non-binding frameworks concerning seasonal labour migration.³ Second, the provisions pertaining to seasonal workers at each stage of the migration process were extracted from these instruments, collated and simplified. The analysis reviews the degree to which the schemes are consistent with binding standards, as well as their consistency with those that are not binding either as a result of not being ratified by Australia or New Zealand, or because they are non-binding frameworks or Recommendations. **The analysis in relations to these standards is therefore provided as a useful point of reference. ILO standards are adopted by a majority of qualified delegates attending the International Labour Conference and their content represents internationally-accepted good practice recommended by the ILO.**

For the third step of the legal review, an internet search was conducted to identify official documents issued by the Government of Australia about the SWP and by the Government of New Zealand about the RSE scheme. These included policy documents, programme guidelines, press releases and other material. These official programme documents were parsed to identify whether, and if so to what extent, the operation of the SWP and RSE is consistent with the legal standards identified in stage two of the review. Finally, after providing comments on a draft of the report, the government departments involved were asked questions by email to resolve remaining information gaps regarding the schemes.

Practical review methodology

The main primary data collection method consisted of individual face-to-face interviews with seasonal workers in Fiji, Kiribati, Samoa and Vanuatu. The sampling was designed to include workers with a diverse range of experiences, rather than to draw a representative sample. The number of interviews was limited to 30 in each country of origin (and 31 in Kiribati). With international travel impossible due to the COVID-19 pandemic, local research assistants were trained to conduct the interviews using standardized questionnaires. In addition, key stakeholders from governments and trade unions in countries of origin and destination and employers' organizations in Australia and New Zealand provided written responses to questionnaires. Due to the COVID-19 pandemic, interviews with key stakeholders could not be conducted in person.

Background of research participants

Forty-five of the 121 survey participants (37.2 per cent) were women. One participant identified their gender as "other".⁴ The average age of the participants was 34.4 years, with a higher average age among women (37.1 years) than men (32.8 years). The only participant with a disability was a woman with a hearing impairment. Two participants identified as belonging to the lesbian, gay, bisexual, transgender and queer

³ See table 3.1 of the technical report for the complete list of instruments and frameworks included in the review.

⁴ Survey participants had the option of identifying as a woman, man or other.

or questioning (LGBTQ) community. Approximately half of all respondents were currently married, while most others were either in a de facto relationship or had never been married.

The average number of children of participants was 2.2. The number of dependents ranged from zero to 26, with the average number of dependents being 5.8. Participants had spent an average of 10.6 years at school. Across the four countries, about 15 per cent of respondents had only attended primary school, about one-third of respondents had attended secondary school without completing it, and another 10 per cent had completed secondary school. Less than 40 per cent of all respondents had completed a post-school qualification, in most cases a vocational certificate or diploma.

Most respondents had only ever participated in either the RSE or the SWP, with only one respondent from Kiribati and five from Vanuatu having worked in both. For their most recent stay, 63 respondents had been to New Zealand and 58 to Australia, with most having last gone overseas in 2019. The average number of months that respondents stayed in Australia or New Zealand was 6.2.

Report findings

Pre-departure arrangements under the SWP and the RSE scheme

The SWP was established by the signing of bilateral labour agreements in the form of a memorandum of understanding (MOU) between Australia and each participating country. This MOU refers to another document called the “Seasonal Worker Program Implementation Arrangements” which contains details of the operation of the SWP. Similarly, the RSE is established by the signing of a bilateral labour agreement in the form of an Inter-Agency Understanding (IAU) between New Zealand and each PIC. Key aspects of the implementation and operation of the RSE are included in an appendix to the IAU entitled “Facilitative Arrangements”. It appears that the SWP MOUs with each PIC are identical, and the RSE IAUs differ only marginally between PICs. An analysis of the degree to which the SWP MOUs/Implementing Arrangements and RSE IAUs/Facilitative Arrangements are consistent with the ILO Model Agreement on Temporary and Permanent Migration for Employment ⁵ finds there to be a number of gaps in the texts of these agreements. A summary is contained in table 1 below, with the details presented in tables 4.1 and 4.2 of the technical report. Where a bilateral agreement is silent on a topic this is considered as being inconsistent, even if this topic is addressed in other documentation associated with the SWP and RSE. This is because unless something is required by a bilateral agreement, Australia and New Zealand are able to make unilateral decisions about topics that should, according to international labour standards, be negotiated and agreed with countries of origin. Tables 4.1 and 4.2 of the technical report contain information on topics for which consistency with international legal standards is achieved outside of the bilateral agreements.

Table 1. Consistency of the SWP and RSE agreements with PICs with the terms of the ILO Model Agreement on Temporary and Permanent Migration for Employment

Model Agreement article	Model Agreement article title	SWP MOU and Implementing Arrangements	RSE IAU and Facilitative Arrangements
Article 1	Exchange of information	Partially consistent	Inconsistent
Article 2	Action against misleading propaganda	Consistent	Consistent
Article 3	Administrative formalities	Consistent	Consistent
Article 4	Validity of documents	Partially consistent	Inconsistent

⁵ The Model Agreement can be found in the Annex of the ILO Migration for Employment Recommendation (Revised), 1949 (No. 86).

Model Agreement article	Model Agreement article title	SWP MOU and Implementing Arrangements	RSE IAU and Facilitative Arrangements
Article 5	Conditions and criteria of migration	Partially consistent	Inconsistent
Article 6	Organisation of recruitment, instruction and placing	Consistent	Consistent
Article 7	Selection testing	Consistent	Consistent
Article 8	Information and assistance of migrants	Consistent	Consistent
Article 9	Education and vocational training	Partially consistent	Partially consistent
Article 10	Exchange of trainees	Partially consistent	Inconsistent
Article 11	Conditions of transport	Partially consistent	Partially consistent
Article 12	Travel and maintenance expenses	Partially consistent	Consistent
Article 13	Transfer of funds	Partially consistent	Partially consistent
Article 14	Adaptation and naturalisation	n/a	n/a
Article 15	Supervision of living and working conditions	Partially consistent	Partially consistent
Article 16	Settlement of disputes	Partially consistent	Consistent
Article 17	Equality of treatment	Partially consistent	Partially consistent
Article 18	Access to trades and occupations and the right to acquire property	n/a	n/a
Article 19	Supply of food	Silent	Silent
Article 20	Housing conditions	Consistent	Consistent
Article 21	Social security	Inconsistent	Inconsistent
Article 22	Contracts of employment	Partially consistent	Partially consistent
Article 23	Change of employment	Consistent	Consistent
Article 24	Employment stability	Partially consistent	Silent
Article 25	Provisions concerning compulsory return	Inconsistent	Inconsistent
Article 26	Return journey	Inconsistent	Inconsistent
Article 27	Double taxation	Inconsistent	Inconsistent
Article 28	Methods of cooperation	Consistent	Consistent

n/a = not applicable.

Recruitment models in countries of origin differ among the PICs. Both schemes allow three types of recruitment:

- i. from a work-ready pool of workers that have been vetted by the labour sending unit (LSU) in the country of origin;
- ii. direct recruitment by Approved Employers/Recognised Season Employers who travel to countries of origin to select workers directly or who task experienced workers with the selection of additional workers for the next season then submit candidates to be vetted and included in the work-ready pool; and
- iii. recruitment by a recruitment agent.

Countries select which types of recruitment they will permit. In all countries, the final recruitment decision is made by employers. Consultation with trade unions in the PICs indicated that unions have no role in the selection and recruitment process of workers but would like to become more engaged in the process of informing workers about their rights in countries of destination and more engaged in coordination with unions in countries of destination.

Before their departure, workers receive written offers of employment and, depending on the recruitment model in the country of origin, government officials or recruitment agents explain these offers to the workers. The survey of workers conducted for this report found that all participants from Fiji, Kiribati, and Vanuatu had received, read and understood their letter of offer and employment. This was not the case in Samoa. Among the 30 respondents in Samoa, 23 had received a letter of employment, 12 had read the letter and 11 had understood it. ⁶ Consultations with unions in the PICs revealed their widespread concern that many workers do not fully understand the offers of employment and contracts. Ensuring that workers understand the conditions of employment prior to departure is required by the ILO General Principles and Operational Guidelines for Fair Recruitment (part 1(IV), para. 7), among other international labour standards.

Candidates selected for the schemes participate in pre-departure training. The arrangements for these trainings differ among PICs in terms of length and contents, but generally include information on employment conditions, climate, clothing and footwear, taxation, insurance, remittances, budget advice, and emergency contact information. In some PICs, training is provided by recruitment agents, in others by government departments. It is important to stress that although most workers receive letters of employment and contracts before they travel to Australia or New Zealand, it is almost impossible for migrant workers to assess whether the conditions are fair, especially in regard to proposed deductions for accommodation, transport and others, and whether piece rates are compliant with national law. Therefore, merely participating in pre-departure training and understanding the conditions in the employment contracts do not necessarily mean that the conditions offered by employers are fair and reasonable. This can often only be established after commencing work under the specified conditions. ⁷

According to the ILO General Principles and Operational Guidelines for Fair Recruitment, **recruitment fees and related costs** should not be charged to migrant workers (ILO 2019). While both the SWP and RSE prohibit charging workers fees for recruitment processes and administration, workers still pay for several related costs. Related costs are defined as “any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection” and include medical costs, insurance costs, and costs for travel and lodging within

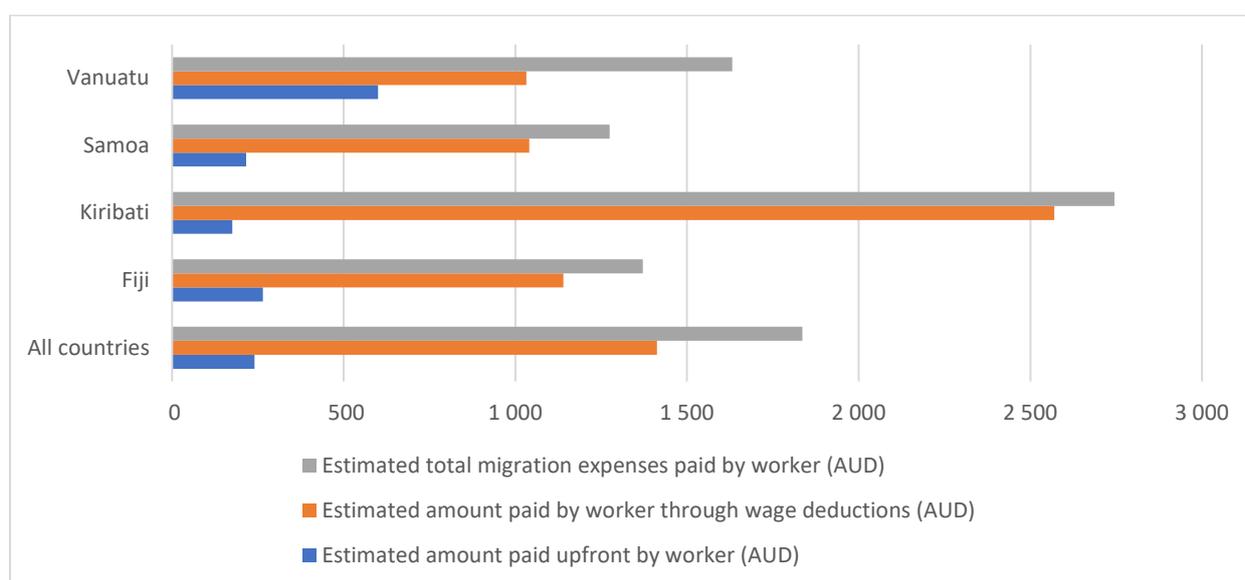
⁶ It is possible that a higher proportion of Samoan workers would have received, read and understood their letter of offer if the sample had been larger, as officers from the Samoan LSU generally explain the contents of the letters to all prospective workers.

⁷ It is noted that “as part of the recruitment process and prior to approval of a recruitment plan, DESE officers assess the Offer of Employment to ensure it meets program requirements. If issues are identified in the Offer of Employment relating to pay and conditions, this can be referred to FWO [Fair Work Ombudsman] for their consideration and advice with the appropriate escalation applied when required” (DESE 2021). However, while this process plays an important role in ensuring the Offer of Employment meets minimum standards, it does not contribute to the workers’ capacity to ascertain if the conditions are fair and reasonable.

and across national borders during the recruitment process (ILO 2019, 29). In the SWP and RSE, pre-departure expenses borne by workers include fees for passports, visas, medical and police clearances, as well as domestic travel and accommodation expenses to undergo medical or fitness tests, arrange for required documents, and attend pre-departure training. Travel expenses to Australia or New Zealand comprise international return airfares, domestic travel and accommodation during transit, only part of which are paid by employers (see the paragraph on “cost of travel” below). While most expenses are initially paid by employers and later repaid by workers through wage deductions, this report provides details of the considerable out-of-pocket expenses that workers have to pay upfront.

The overall amount of expenses varies between countries. The median migration costs to Australia amounted to 2,054 Australian dollars (AUD) and median migration costs to New Zealand amounted to AUD1,471. Figure 1 below shows workers’ total migration costs as reported by survey respondents, divided between upfront costs and payments through wage deductions. Expenses were highest for workers from Kiribati, due to high international airfares, and lowest for workers from Samoa. The technical report also includes calculations for the migration costs for the Kiribati–Australia and Vanuatu–New Zealand corridors.

Figure 1. Median migration expenses paid by workers upfront, through wage deductions and in total



Note: Five respondents from Fiji and two from Samoa did not estimate their migration costs.

The average migration costs borne by workers amounted to 12 per cent of gross earnings for SWP workers and 11 per cent for RSE workers.⁸ Workers start their seasons in Australia and New Zealand with considerable debts to their employers, and partly with debts to family, banks and governments in their home countries. By contrast, while employers meet some up-front expenses, they largely recoup these later through wage deductions. The systems for deductions in both Australia and New Zealand are regulated as required by international labour standards but have not been developed in consultation with the most representative workers’ and employers’ organizations, as is also strongly recommended in the guidelines and frameworks pertaining to the implementation of these standards.

As noted above, the **cost of travel** is defined as a cost related to recruitment that should not be paid by workers (see ILO 2019; ILO Recommendation No. 100, Para. 7(a)). SWP workers are responsible for all but

⁸ This figure does not include expenses for accommodation and similar items such as transport and deductions for tax paid by workers in Australia and New Zealand that affect net income in the destination countries.

AUD300 of their travel costs from origin to workplace, and RSE workers are required to pay all but half of their airfare. International labour guidelines indicate that “[e]mployers should be required to restrict any advances to workers to a small proportion of their monthly remuneration” (Recommendation No. 100, Para. 33). However, both SWP and RSE employers are incentivized to recoup travel costs from workers quickly to avoid a situation in which a worker returns without having repaid their debt. The SWP requires employers to restrict deductions for travel costs to “reasonable instalments”, and in New Zealand employers are prohibited from making deductions that are “unreasonable”. “Reasonable” is not clearly defined in the programme documentation for either scheme.

Working conditions and rights at work under the SWP and the RSE scheme

The vast majority of respondents were engaged in the horticulture industry, where the physically harder tasks of pruning and picking were mostly done by male workers, while many women were employed in packhouses where they weighed, sorted and packed fruits and vegetables. A small number of respondents worked in other industries, including three workers from Fiji and one from Vanuatu who worked at tourist resorts in Australia. Another worker from Vanuatu was employed on a chicken farm in Australia, and a Samoan worker at a meat processing facility in New Zealand.⁹ Fifteen respondents who had been to New Zealand and 19 who had worked in Australia were employed through a labour-hire contractor.

Under the regulatory provisions for the protection of migrant workers under the RSE and SWP, workers are entitled to equality of treatment with citizens under the relevant labour legislation. This includes the same minimum pay as citizen employees in the same positions, and there are provisions guaranteeing both SWP and RSE participants a set number of work hours per week on average over the duration of their employment contract.

The average weekly earnings of workers in Australia was AUD988, compared to AUD868 in New Zealand. Female workers had higher weekly earnings than male workers in both Australia and New Zealand. In Australia, workers from Fiji had the highest earnings (AUD1,138 per week) and workers from Vanuatu the lowest (AUD834). In New Zealand, Samoan workers had the highest earnings (AUD1,093) and workers from Fiji the lowest (AUD736). In New Zealand, regardless of the type of payment, workers must receive the minimum wage. In Australia, workers can be either full-time, part-time or casual, and are paid according to the rates set in the “award” for their industry.¹⁰ There were considerable variations in income between countries of origin and among individual cases upon close examination, which has also been identified in other studies (see, for example, Nunns, Bedford and Bedford 2019). Some employers continue to pay their returning workers the minimum wage despite the workers having increased skills and several years of experience. Concerns about employment conditions also relate to: the complexity and lack of transparency around how piece rates are calculated; rates that change throughout the season; and employers that do not confirm what the rate will be.

All respondents said that they understood how their pay was calculated, except for three workers in New Zealand. All workers were aware that they paid tax in Australia/New Zealand, and most workers in Australia were aware that their employers paid superannuation contributions on top of their wages. A major grievance of respondents was that the deductions from their wages were too high. In addition to repaying

⁹ Since RSE workers cannot be employed in the meat industry, the situation of this worker is unclear. He arrived in October 2019 and returned to Samoa in July 2020. It is possible that he transferred to a different visa during the COVID-19 pandemic, after arriving on an RSE visa.

¹⁰ Under the Fair Work Act, 2009, each industry in Australia has either a specific “award” that specifies the minimum pay rates and employment conditions for individual workers (which applies to an entire industry) or an “enterprise agreement” applying to a particular business or group of businesses. There are more than 100 industry or occupation awards that are listed at the Fair Work Commission website (www.fairwork.gov.au); while more than 160,000 enterprise agreements are registered at the Attorney General’s website (www.ag.gov.au). Information on the award for SWP workers is contained in the Offer of Employment.

their employers for travel expenses, most workers pay for accommodation, utilities and transport (between their place of accommodation and work) through wage deductions, in addition to tax and health insurance.

Table 2 below compares the total earnings before deductions with those after deductions in Australia and New Zealand. In New Zealand, deductions over the entire season were almost AUD2,000 lower than in Australia, mostly as a result of a higher share of international travel expenses paid by seasonal workers in Australia. The lower deductions in New Zealand together with a longer average length of stay in New Zealand of 6.5 months, compared to 6 months in Australia, contribute to the higher total earnings after deductions in New Zealand.

Table 2. Total earnings before and after deductions in Australia/New Zealand, as reported by survey respondents

	Australia	New Zealand
Total earnings before deductions (AUD) ⁱ	25 695.80	24 309.32
Total earnings after deductions (AUD)	12 999.31	13 399.04
Overall deductions (AUD)	12 696.49	10 910.28
% of earnings remaining after deductions	50.6	55.1

The average number of workdays per week was 5.96 in Australia and 5.98 in New Zealand, and the average working hours per day were 8.4 in Australia and 8.9 in New Zealand. Over half of the respondents were involved in overtime, weekend and public holiday work, most of which was not paid at a higher rate. Details are provided in the forthcoming technical report. Most workers did not have annual, sick or other leave entitlements as required by the ILO Migration for Employment Convention (Revised), 1949 (No. 97) (Article 6(1)), among other provisions, either because they are classified as casual workers (in the case of Australia) or because they did not meet minimum employment periods before qualifying for leave (in New Zealand).¹¹

Previous research and the media have documented cases of worker exploitation under both the RSE and SWP, including underpayment and even non-payment of wages; unlawful deductions from wages; excessive working hours without proper compensation; lack of breaks; overcrowded and substandard accommodation and unreasonable above-market rate charges for accommodation and transport; racism and discrimination at work; verbal and physical abuse; employer non-compliance with pre-departure and on-arrival briefing requirements; and others. Several examples of such instances were recounted by respondents in this survey.

The technical report notes that both Australia and New Zealand have measures in place to prevent and identify exploitation in their respective schemes, while also arguing that such measures could be strengthened in light of the specific risks of exploitation that arise in the context of seasonal work for Pacific workers and that arise from conditions placed on the visas issued to these workers. The report argues that Pacific seasonal workers face the risk of exploitation in Australia and New Zealand due to three main factors. First, exploitation occurs as a result of conditions in the horticulture industry in general and the treatment of migrant workers more broadly. Second, some workers are exploited as a result of problems in the design of the SWP and the RSE scheme. Third, exploitation also occurs due to employers not complying with the regulations of the SWP and the RSE scheme. These factors are overlapping, and in some workplaces, all of them are present. In regard to the first factor, over the last decade there have been a number of reports detailing exploitation in Australia's horticulture industry. The Fair Work Ombudsman's Harvest Trail Inquiry

¹¹ In New Zealand, workers who are employed for less than 12 months are entitled to 8 per cent of their wages paid in lieu of annual leave at the end of their contract. Although there was no targeted question about this entitlement in the questionnaire, several workers mentioned that they received their holiday pay.

(which started in 2013) highlighted widespread employer non-compliance in Australia in the agriculture industry, with inspectors recovering more than AUD1 million in unpaid wages for over 2,500 workers (Australia, FWO 2018b). At the same time, agriculture has become the sector that is most reliant on overseas migrant workers (Retail Supply Chain Alliance 2020; see also Berg and Farbenblum 2017; Maclellan 2017).

Concerning the second factor – that is, the design of the SWP and the RSE scheme – the residence and work rights of seasonal and temporary workers in Australia and New Zealand are limited by immigration laws, including that visas are bound to the workers' continued employment with their employer.¹² This creates fear among workers that actions taken against their employers will lead to termination of employment and the cancellation of their visa or the employer recommending against their employment for future seasons, rendering them vulnerable to exploitation (Kouba and Baruah 2019). Regarding **choice of employment** international labour standards indicate that for contracts of a fixed term of less than two years, workers should have access to free choice of employment after the completion of their first contract (Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Art. 14(a, c); Migrant Workers Recommendation, 1975 (No. 151), Para. 6) or lawful residence for a period exceeding two years (International Convention on the Protection of the Rights of Migrant Workers and Their Families (ICRMM), Art. 52). The Global Compact on Migration urges States to “develop and strengthen labour migration and fair and ethical recruitment processes that allow migrants to change employers and modify the conditions or length of their stay with minimal administrative burden” (Objective 6, 22(h)) and “[d]evelop accessible and expedient procedures that facilitate transitions from one status to another” (Objective 7, 23(h)).

In Australia, the Department of Home Affairs and the Fair Work Ombudsman introduced an Assurance Protocol in 2017 stating that workers “can seek help without fear of visa cancellation, even if they've breached their work-related visa conditions” (Australia, FWO, n.d.). The Assurance Protocol relies on a policy decision by the Department of Home Affairs and is therefore not a legally binding commitment. It is also subject to a series of caveats. Australia and New Zealand have implemented the “approved employer” requirement to ensure that workers from the Pacific only work for employers who are vetted and monitored. However, this protection would still exist if workers were afforded free choice of employment within the pool of approved employers.

Regarding **termination and the decision to re-hire** for second and subsequent seasons, ILO Convention No. 143 states:

A migrant worker who has resided legally in the territory for the purposes of employment shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment. Nor should the loss of employment imply the withdrawal of his authorization of residence or work permit. Instead, he shall enjoy equality of treatment with nationals with respect to security of employment, the provision of alternative employment, relief work, and retraining (Art. 8).

Both the RSE and SWP require workers to be employed by an approved employer in order to retain their visa. Further, ILO Recommendation No. 151 states that “[n]ational laws and regulations concerning residence in its territory are to be applied such that the lawful exercise of rights cannot be the reason for non-renewal of a residence permit or for expulsion and are not inhibited by the threat of such measures” (Para. 5). At present, neither the SWP nor the RSE requires employers to provide information outlining their reasons for choosing not to re-hire a particular worker in a subsequent season or their reasons for recommending against a worker's future participation.

¹² It should be noted that in New Zealand and in the SWP Regional Pilot in Australia employers can jointly sponsor a Pacific worker who is then transferred between these employers.

It was also reported that some country of origin governments actively discourage returned workers from speaking out about the violation of rights at work in order not to jeopardize opportunities for other workers from the country. This concern stems from the fact that some PICs may perceive themselves as competing with each other for a limited number of seasonal work opportunities in Australia and New Zealand. Given that many seasonal workers return to Australia or New Zealand each season for many years, they have essentially become permanent workers without the benefits of permanent employees (such as paid sick leave and paid annual leave).

The third factor of employers not following the regulations of the SWP and the RSE scheme has also contributed to significant risk of workers exploitation. Available evidence of exploitation is more readily available in relation to the SWP and the following examples are drawn from Australia. However, the risk of exploitation in the design of the RSE scheme is similar and has been noted in a number of studies (Bailey 2019). According to the Retail Supply Chain Alliance (2020), there have been many cases of exploitation found by workers under the SWP, with 29 employers under the SWP found to have not been complying with workplace laws. Primary research conducted for this report and by others suggests that minor breaches of the worker welfare and wellbeing requirements in the SWP and RSE are not uncommon, but no information is publicly available on the total number of reports of exploitation received or investigations carried out by authorities in Australia and New Zealand or on the specific measures that have been taken in workplaces as a consequence. Further, many employers are labour-hire contractors. The high prevalence of labour exploitation in Australia's labour-hire sector within the past decade, including with reference to SWP workers, has been highlighted in a number of government inquiries (Australia, Parliament, Joint Standing Committee on Foreign Affairs, Defence and Trade 2017; Australia, FWO 2018a). Existing practices of oversight and enforcement of labour standards and programme requirements once employers have been approved – the majority of which involve desk reviews in the first instance – may not be sufficient. This is partly a consequence of the small number of labour inspectors and compliance officers who ensure that minimum conditions are met.

Both the New Zealand and Australian governments have begun to take measures to address issues of seasonal worker exploitation. In 2016, the Australian Government created the Migrant Worker Task Force “as part of the Government's response to the revelation of significant wage underpayments in certain industry sectors” (Australia, Migrant Workers' Task Force 2019). The Task Force focused on all temporary visa holders, including SWP workers. The Migrant Worker Task Force (2019, 34–35) report noted:

Migrant workers and temporary visa holders continue to be one of the most vulnerable worker cohorts, and are continually over-represented in disputes as well as compliance and enforcement outcomes. In 2017–18, migrant workers made up an estimated 6 per cent of the Australian workforce, however they accounted for 20 per cent of all formal disputes the FWO [Fair Work Ombudsman] helped resolve (up from 13 per cent in 2015–16) and featured in 63 per cent of the court cases commenced by the FWO in the same year.

All 22 recommendations made in the Task Force report released in 2019 were accepted in-principle by the Government. Information provided by the Attorney-General's Department on 9 June 2021 indicates that progress on implementation of these recommendations is still ongoing, with the main actions to date focused on consultation, gathering data, internal review and efforts to enhance migrant workers' awareness of workplace rights and entitlements (Australia, Senate 2021b). Measures to address the structural causes of exploitation of temporary migrant workers in Australia are yet to be implemented.

In the October 2020 Federal Budget, the Australian Government announced that SWP workers will be provided with additional welfare support. The Salvation Army was chosen to deliver the AUD1 million Community Connections measure which, over the next two years, will provide additional and strengthened

welfare support to SWP workers, better connect them with their local communities and work to advance cultural understanding with the wider population. Nineteen Pacific Labour Mobility Officers will be deployed across Australia this year (15 were in place as at June 2021) to “work with seasonal workers, approved employers, and local community groups, and undertake additional welfare, monitoring and compliance activities (including accommodation checks)” (Australia, Senate 2021a).

In June 2021, the Australian Department of Foreign Affairs and Trade announced a new consultation process seeking submissions from stakeholders on “options for further enhancing Australia’s highly successful Pacific labour mobility initiatives: the Seasonal Worker Programme (SWP) and the Pacific Labour Scheme (PLS)” (Australia, DFAT, 2021).

In New Zealand, in September 2018, the Government embarked on a Temporary Migrant Worker Exploitation review. The objectives of the review were to:

- “Prevent the occurrence of workplace (and other) conditions that might enable temporary migrant worker exploitation
- Protect temporary migrant workers in New Zealand and enable them to leave exploitative employment
- Enforce immigration and employment law to deter employer non-compliance through a fit-for-purpose offence and penalty regime” (New Zealand, MBIE, n.d.).

A consultation on proposed changes to prevent migrant exploitation was held between October and November 2019. The Government commissioned independent research and created a consultation group involving migrants, businesses, unions and international students.

In June 2021, the New Zealand Government implemented new measures to address temporary migrant worker exploitation supported by 50 million New Zealand dollars (NZD) in funding over four years.

The new measures include:

- “A new visa to support migrants to leave exploitative situations quickly and remain lawfully in New Zealand. This visa will be valid for up to six months.
- A new dedicated 0800 number and web form to make it easier to report migrant worker exploitation” (New Zealand, MBIE, n.d.).

There will also be a “substantial increase in funding for compliance and enforcement through Employment New Zealand and Immigration New Zealand” (New Zealand, MBIE, n.d.). While this new visa does not apply to RSE participants, the Ministry of Business, Innovation and Employment (MBIE) has advised that “a bespoke solution for RSE workers will be developed through the RSE policy review”.¹³

Indeed, the scope of the RSE Policy Review includes a number of key areas relevant to preventing migrant worker exploitation. The review will:

- “Consider ways to increase certainty and transparency around workers’ pay, including ways to ensure the increased skill and experience of return workers is recognized
- Consider the place of training and skill development in the scheme and whether additional requirements are needed
- Consider enabling a multi-entry visa for RSE workers.”¹⁴

Finally, working conditions in the SWP and RSE are affected by the absence of a formal system to support the **recognition of skills and qualifications** (and to have this translate into increased wages) or to support

¹³ Correspondence with the MBIE, September 2021.

¹⁴ The scope of the RSE Policy Review was provided via correspondence with the MBIE, September 2021.

vocational education and training. Australia has an Add-On Skills Training programme for SWP workers that is currently under review and focused on topics such as first aid, English and IT skills. New Zealand's bilateral agreements concerning the RSE mention the possibility of training but no details are provided in programme documentation. RSE employers are expected to provide on-the-job training and upskilling; however, it is not clear if this is an express requirement. In New Zealand, access to training courses is provided through Vakameasina, an independent training programme that offers courses based on worker demand. The Ministry of Foreign Affairs and Trade fund a number of initiatives for RSE workers, including Vakameasina.¹⁵

The national employment **health and safety systems** in Australia and New Zealand are consistent with international labour standards and extend equality of treatment with nationals to migrant workers with respect to workers' compensation schemes, though no secondary data on access to these schemes by SWP or RSE workers was readily available to include in this review. An assessment of SWP and RSE worker health and safety is particularly significant in light of the hazards associated with work in the agriculture industry. In Australia, agriculture is one of seven priority industries being targeted to reduce fatalities and serious claims under the Australian Work Health and Safety Strategy 2012–2022 (revised in 2018). Agriculture, construction, manufacturing and forestry are also focus areas for WorkSafe New Zealand (New Zealand, WorkSafe, n.d.).

Stakeholders consulted for this review also raised concerns about the number of road accident fatalities within the cohort of SWP workers. Australia's Department of Education, Skills and Employment (DESE) has commented that no SWP workers have died as a result of a work-related incident, perhaps because transportation to and from work is not defined as part of work. Nonetheless, it has recently created materials on road safety for SWP workers and employers. The Australian Workers Union (2021) is currently campaigning for the Australian Government to take action to "[e]nsure that approved employers are meeting their safety obligations with regards to the transportation of workers safely to and from work, while properly managing driver fatigue" and to "ensure that approved employers provide seasonal workers who are drivers with the proper skills and educational training to ensure that they can safely operate vehicles in Australian conditions". A number of fatal road accidents involving RSE workers have also occurred in the New Zealand, though these also seem to have occurred outside the workplace.

Living conditions under the SWP and the RSE scheme

Under the pastoral care requirement in the SWP and the RSE scheme, employers are required to provide arrangements to help workers arrive, settle in, and have access to adequate facilities while in Australia/New Zealand (Australia, DESE 2021; New Zealand, INZ, n.d.-c). These generally include arranging transport to and from the port of arrival and departure; providing a work induction programme; ensuring access to suitable accommodation; providing information on medical insurance, banking services, and money transfers; providing transport to and from work; making occupational safety and health provisions; and providing opportunities for recreation and religious observance. The technical report provides details which pastoral care aspects were provided, whether workers or employers paid for them and whether workers were satisfied with them.

Minimum standards for **accommodation** in the programme guidelines for the SWP and RSE broadly meet international standards in this area, though it should be noted that workers indicate that these standards are not met in practice. The major causes of dissatisfaction for workers interviewed were around the quality and cost of accommodation and the cost of transport. In some regions of New Zealand, residential houses cannot be used for RSE workers, unless the houses are owned by the employer or have been purpose-built for the use of horticulture/viticulture workers (New Zealand, MBIE 2019, 4). This restriction was introduced

¹⁵ Correspondence with the MBIE, September 2021.

to address the concern that housing for RSE workers was exacerbating residential housing pressures. This restriction may contravene Convention No. 97 Art. 6(1)(a)(iii), as it applies a restriction on accommodation of workers from the Pacific that is not equally applied to New Zealand nationals (New Zealand, MBIE 2020, WH1.10.35).

Other than accommodation and transport, the overall level of satisfaction with various pastoral care aspects was high. Most negative comments about accommodation referred to crowdedness and the high cost of accommodation. Female workers were more likely to be dissatisfied with their accommodation, and a larger proportion of workers in New Zealand were dissatisfied than in Australia. The average number of workers who shared a bedroom was 3.1 in Australia and 3.3 in New Zealand, and the maximum number of workers sharing a bedroom was 12 in New Zealand and 10 in Australia. The average number of workers per bathroom was 5.8 in Australia and 5.9 in New Zealand. There were respondents from both Australia and New Zealand who had to share a bathroom with as many as 30 others.

Workers were asked whether they had a grievance or complaint at work, and overall, 38 per cent of respondents had had a grievance, with a slightly higher percentage found among respondents who had last worked in Australia (40 per cent) rather than New Zealand (37 per cent). Workers from Vanuatu were most likely to have a grievance (47 per cent), compared to only 20 per cent of workers from Fiji. The majority of workers were aware of the formal grievance/complaints procedure at their workplace. However, a number of workers who had work-related grievances did not raise them for a variety of reasons, including: unequal power dynamics between employers and workers, with workers fearing that they might be sent home early or not be allowed to return if they raised a complaint; team leaders discouraging workers from complaining due to allegiance to the employer or wanting to maintain a good reputation of their countrymen/women as seasonal workers; and what workers perceived as the cumbersome nature of the complaints process.

While both programmes allow workers to arrange their own accommodation, this is exceedingly rare in practice. All workers in New Zealand said that they were allowed to leave their accommodation if they wanted to go somewhere in their free time. Despite freedom of movement being a requirement under the SWP, 16 workers reported that they were not allowed to leave. If it is true that a considerable number of workers in Australia were not allowed to leave their accommodation freely, this would constitute a major curtailment of their personal freedom. It should be noted that international guidelines recognize that it is generally not desirable that employers provide housing for their workers directly, with exceptions in cases such as when an undertaking is located at a long distance from population centres or where the nature of the employment requires that the worker be available at short notice (ILO Worker's Housing Recommendation, 1961 (No. 115), General Principles, Para. 12(2)). Furthermore, these guidelines indicate that "rents charged should be to ensure that adequate and decent housing accommodation should not cost the worker more than a reasonable proportion of income, and in any case should not include a speculative profit" (Recommendation No. 115, General Principles, Para. 12(3)).

The SWP and RSE programmes indicate that workers should be provided with support to engage in **social life** (Australia, DESE 2021c; New Zealand, INZ, n.d.-c). Some workers had little time for **leisure activities**, as they were working up to seven days per week. In general, regular activities included shopping, attending church and playing sports.

At present, seasonal workers have to pay for their private **health insurance** in Australia and New Zealand through wage deductions because they are excluded from universal health systems in both countries. The requirement to obtain health insurance meets international labour standards in principle. However, private insurance is expensive, some of the policies apply waiting periods or do not cover pre-existing illnesses, and there are also out-of-pocket expenses when seeing a doctor, which led to some workers lacking sufficient cover or avoiding seeking care.

Respondents were asked about their major **likes and dislikes** about living and working in Australia/New Zealand. Regarding major likes, the responses for Australia and New Zealand were similar and centred around good income-earning opportunities; shopping opportunities; healthy and affordable food; clean and safe places, towns and environment; the opportunity to make new friends and have good company; the opportunity to learn new skills, be engaged in new types of work; working with a good team and having good team leaders and bosses; the opportunities to get to know new places and a new culture; and support from the local community (in the case of New Zealand, the local Pacific Islander and Maori communities were mentioned). Asked about their major dislikes, the major negative factors were the climate; working conditions (long working hours in some cases and lack of available work in others, lack of holidays, no overtime pay); pay-related issues (high deductions, frequent mistakes on payslips, inaccurate recording of work time); specific work tasks (especially having to climb up ladders); the attitude of employers and local workers (especially in Australia); poor quality accommodation; a busy, rushed and complicated lifestyle; and the high cost of living (especially in Australia).

Equality of treatment of SWP and RSE workers

Distinctions between citizens and non-citizens are permitted in international human rights law only when: (a) lawfully imposed under the very narrow exceptions stated in international human rights treaties; (b) these distinctions serve a legitimate State objective; and (c) the distinctions are proportional to the achievement of that objective (OHCHR 2006). It is not clear that the distinctions being drawn in the case of workers in the RSE and SWP fall into these exceptions. Further, The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has stated that “[t]he Committee considers that where a system of employment of migrant workers places those workers in a particularly vulnerable position and provides employers with the opportunity to exert disproportionate power over them, this could result in discrimination based on the grounds of the Convention” (ILO 2012, para. 779).

Workers in the SWP and RSE are entitled to formal equality with nationals under the Australian Fair Work Act 2009 and the New Zealand Employment Relations Act 2000, but the effectiveness of this equality is limited by various conditions attached to their immigration status (see discussion above). Consequently, workers are affected by various issues outlined in the technical report that prevent substantive equality and, in some cases, lead to discrimination in both law and practice. This is the case in law with respect to taxation (in Australia) and social security (in Australia and New Zealand), and in practice in both countries with respect to access to justice (given that employers are not required to provide reasons for choosing not to re-hire workers in subsequent seasons).

Australia and New Zealand have implemented provisions to **ensure freedom of association for migrant workers**, but only 10 per cent of all respondents (13 per cent in New Zealand and 7 per cent in Australia) joined a **union** while overseas. Union membership was highest among workers from Vanuatu (20 per cent) and lowest among workers from Kiribati, as none had joined a union. The main reason for not joining unions was a lack of information and awareness. Some respondents were afraid of being fired or not being able to return in the future if they joined a union, and some employers did not allow workers to join unions.

Regarding **taxation**, Australia SWP workers are taxed at a flat rate of 15 per cent on earnings (Australia, DESE 2019b). This rate is significantly higher than the tax rate applied to the equivalent income of Australian nationals.¹⁶ RSE workers are taxed at the same rate as New Zealand nationals. While there is no compulsory **superannuation** contribution system for seasonal workers in New Zealand, employers in Australia pay superannuation contributions for seasonal workers. After returning to their country of origin, workers can apply for a transfer of their accrued superannuation savings. Although employers provide information on

¹⁶ The relevant tax rate for an Australian resident would be zero tax on any income up to AUS18,200 and 19 cents for every AUD1 over AUD18,102 up to AUD37,000. Higher rates on a graduated scale apply for income over AUD37,000 (Australia, ATO, n.d.)

this process, many workers and LSUs in country of origin governments struggle with the process and some workers have not been able to claim their superannuation upon return home. Additionally, workers pay tax on their superannuation at much higher levels than national workers.

In sum, seasonal workers face a significant number of challenges arising from the fact that they are tied to their employer, who is not just their employer but also their recruiter, visa sponsor and accommodation and transport provider. Union membership could reduce the power imbalance between seasonal workers and employers so that seasonal workers can enforce their workplace rights. SWP Approved Employers must invite unions to participate in on-arrival briefings (Australia, DESE 2021, schedule 1(J3)). Information is not available on how regularly union officials actually attend and union membership among the cohort of SWP and RSE workers remains low.

SWP and RSE workers are not always afforded equality of treatment with nationals with respect to social security as required by ILO Conventions (Convention No. 97, Art. 6; Social Security (Minimum Standards) Convention, 1952 (No. 102), Art. 68; Equality of Treatment (Social Security) Convention, 1962 (No. 118), Art. 3; Convention No. 143, Art. 10). This exclusion may fall under a permitted exception as most social security in both countries is funded by non-contributory defined benefits schemes. The exclusion of Pacific workers from some forms of social protection, and in particular unemployment benefits had clear implications during the COVID-19 pandemic. It is noteworthy that in 2021 a resolution concerning social protection adopted by the International Labour Conference urged States to urgently “extend coverage and guarantee universal access to comprehensive, adequate and sustainable social protection for all” and particularly highlighted the importance of doing so for migrant workers, agricultural workers, platform workers, rural populations, persons in precarious situations, and persons in low-paid work” (ILO 2021, para. 8).

SWP and RSE workers have formal equality with nationals with respect to **access to justice**, and measures are in place to facilitate access to the labour inspectorate in both countries. However, as discussed above, both Australia and New Zealand need to assess the ways in which immigration policies may be limiting substantive equality of access to justice for temporary visa holders, and in particular workers with specific risk of vulnerability, such as those from PICs. **Family unification** is not available under either scheme. The SWP and RSE also reportedly have created issues for family life as a result of the long absences of participants. International human rights law states that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State” (International Covenant on Economic, Social and Cultural Rights, Art. 23). International labour standards do not require states to enable dependents and family to accompany all seasonal migrant workers, though this is strongly encouraged (Convention No. 143, Art. 13; ICRMW, Art. 44).

Participation of women and marginalized groups

Since their inception, participation in the seasonal work programmes has been heavily male. For instance, in the 2019–20 season, just 20 per cent of SWP participants were women, this percentage dropping to 19 per cent if Timor-Leste is excluded and only participants from PICs are considered. Respondents explained that the male predominance mostly lies with employers’ preference for men. From across the four PICs, 57 per cent of seasonal worker respondents thought that employers selected men over women. There are also several factors within countries of origin that discourage the participation of women and other marginalized groups. These include cultural norms, self-selection, discouragement by spouses and families, lack of support from village heads and pastors, and discouragement by government officials and recruitment agents. In the end, women that successfully overcome these internal factors might not be chosen by employers in Australia and New Zealand. The SWP and the RSE schemes are employer-driven, which means that recruitment decisions are made by employers that might hold biases about which workers are suitable for certain jobs. Horticultural work is generally physically demanding, leading to an employer preference for

male workers. However, employers recruit women for specific roles that they perceive to be more suitable for women, such as sorting, grading and packing as well as picking delicate crops like berries.

Little is known about the participation numbers and rates of other marginalized groups, such as persons with disabilities; outer island residents; members of the LGBTQ community; particular ethnic, religious or linguistic groups, and others. Data gathered in this survey suggests that they are not participating in high numbers. The technical report discusses some barriers to access for disabled people and LGBTQ persons.

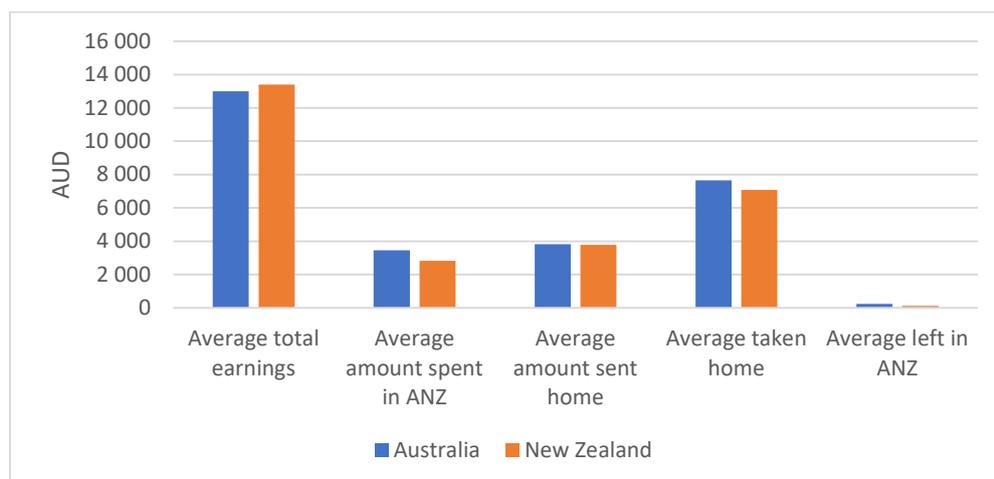
While migrant workers are entitled to the same formal labour rights and protections with regard to **pregnancy** as nationals, these general provisions do not address the specific vulnerabilities that may be experienced by pregnant PIC workers in remote locations. Medical costs incurred by a pregnant worker will not be covered under existing health insurance policies available to workers, as pregnancy coverage is subject to waiting periods (though complications arising from pregnancy are covered up to 24 weeks under the policy for workers in New Zealand). Information on pregnancy is not included in the pre-departure booklets issued to workers in either the SWP or RSE. No official information is collected on worker pregnancy in either country, and it appears that workers rely on the assistance of communities and employers until they can return home and they are not provided with an option to complete their season of work unless they pay for their return themselves after giving birth. Similarly, no provision is made to accommodate **workers with disabilities**.

Economic and social impacts for participants and their families and the countries involved

The main **economic benefits for participants and their families** are the earnings received by workers, part of which are sent home as **remittances**, part of which the workers take home at the end of their stay as **repatriations**, and part of which are used to purchase durable goods which are taken or sent home.

Figure 2 below presents the average total earnings after deductions, which were higher in New Zealand than in Australia. Workers in both countries repatriated more than half of their total earnings at the end of their stay. They also remitted more money to their families while they worked overseas than what they spent themselves of their disposable income. Workers left small amounts of money in Australia/New Zealand.

Figure 2. Average total earnings (after deductions) and where these earnings were spent or saved, by country of destination



ANZ = Australia and New Zealand.

The **main economic impacts for PIC countries of origin** are: remittance receipts, which improve national incomes and ease pressure on government services; the provision of income opportunities for unemployed and underemployed Pacific Islanders; and the opportunity to earn new skills either through on-the-job

training or through participating in training courses. Negative impacts that are discussed in the technical report include the loss of able-bodied young men for community work; loss of contributions to church or family; alcohol consumption; family separation; and the fact that the economic benefits of the schemes are not always spread widely and can increase social inequality.

PIC governments currently provide little or no reintegration assistance to seasonal workers returning from Australia and New Zealand, despite the potentially wide-ranging benefits of such assistance for migrants and their families.

The **main economic benefits for Australia and New Zealand** are increased viability and profitability of the horticulture/viticulture sector in New Zealand and the agricultural sector in regional Australia by expanding production and easing labour shortages (New Zealand, MBIE 2019).¹⁷ In Australia, the SWP is critically important in securing a seasonal workforce in regional Australia. Among the costs of running the schemes for Australia and New Zealand are the reputational damage to Australia and New Zealand when seasonal workers are exploited.

The social impacts of the schemes were not the primary focus of this research; however, consultations showed that workers and other stakeholders were concerned about the negative social impacts of the schemes, including the breaking up of marriages and families, missing out on major lifecycle events such as births and deaths, not being able to solve family disputes, and houses not being looked after and household chores not being done. The main strategy of workers to minimize disruptions to family life are regular and frequent communications with their household back in their home country, with 70 per cent of respondents being in daily contact, mostly by mobile phone, social media and internet calls.

In sum, the potential positive impacts of the schemes are largely economic and are determined by who participates in the schemes, how much they earn, what the incomes are spent on, and whether useful skills are acquired overseas. By contrast, most of the negative impacts are social and psychological, and include the fragmentation of workers' lives, the negative social impacts on families, and the cost of reintegrating workers back into their home societies. Potential negative economic impacts are the costs associated with losing workers in PICs.

Impacts of the COVID-19 pandemic

RSE and SWP workers have been affected in different ways by the COVID-19 pandemic. International travel restrictions have left thousands of seasonal workers stranded in Australia and New Zealand while preventing others from travelling to Australia or New Zealand to take up employment. When on 19 March 2020, Australia and New Zealand closed their respective borders in attempts to limit the spread of COVID-19, some 7,000 Pacific seasonal workers were working in Australia and more than 9,700 in New Zealand (Bailey and Bedford 2020). New Zealand introduced more flexible work arrangements. The New Zealand Government also announced it will allow 2,000 RSE workers from the Pacific to enter New Zealand between January and March 2021 to help fill labour shortages in the horticultural and wine sectors under strict conditions, which represented the first significant opening of the border to foreign workers since the beginning of the COVID-19 pandemic. A second RSE border exception was subsequently agreed enabling entry of workers from Samoa, Vanuatu and the Solomon Islands from June 2021. Since then, the Prime Minister has also publicly announced her Government's intention to open quarantine-free travel for RSE workers from Samoa, Vanuatu and Tonga once the quarantine-free travel arrangements have been agreed and put in place. At the time of finalizing the report, the specific agreements and operational requirements around this were changing quickly, but were broadly moving in the direction of increased quarantine-free travel to facilitate the movement of RSE workers.

¹⁷ Consultation with the Australian Chamber of Commerce and Industry (ACCI), September 2020.

In Australia, seasonal workers have had the opportunity to apply for new visas and are allowed to extend this visa to work until they can return to their home countries. Australia opened up its borders to Pacific workers in August 2020, with the Australian Government announcing a Pacific Restart for the SWP with some amendments to the programme design. All ten countries that had previously accessed the SWP had rejoined by November. Recruitment and quarantine of SWP workers had to be managed by the states and territories, which were required to opt-in and set specific protocols determined by their Chief Health Officer – for instance, Queensland opted in to cover a labour shortage in agribusiness (Australia, Government of Queensland, n.d.). In addition, a Northern Territory pilot was launched under which an initial 170 ni-Vanuatu workers were given visas under the SWP to provide labour for the upcoming mango harvest (Bedford and Bailey 2020). The workers were required to undergo quarantine, and 75 per cent of their flights and quarantine costs were covered by the Approved Employers (Australia, DESE 2020a). The Agriculture Minister foreshadowed that depending on the trial's success, this new pathway could be open to more SWP workers in future (Kwan 2020). A targeted recruitment programme has also been introduced (Australia, DESE 2020b). As of 30 April 2021, a total of 3,528 SWP workers had arrived under SWP Restart (3,366) and the Northern Territory Mango Pilot (162) to work on farms in the Northern Territory, Queensland, Tasmania and Western Australia (Australia, Senate 2021a).

However during the period when sudden movement and travel restrictions were imposed by the Australian Government, SWP workers found themselves excluded from the Government's temporary income support measures such as JobKeeper and JobSeeker, along with other temporary foreign workers such as working holidaymakers and international students – this denied seasonal workers from the Pacific equal treatment with citizens and residents. Temporary visa holders were eligible for government assistance during the pandemic through the Emergency Relief programme delivered by community organizations and a COVID-19 relief fund specifically for temporary visa holders delivered by the Australian Red Cross.

It seems that the majority of support provided to SWP workers came from communities that rallied around them to provide support and from employers who provided support. In some cases, workers who had their hours cut due to COVID-19 found that unexpected deductions were taken from their pay to cover rent and food, reducing the amount workers could send as remittances (Graue 2020). In July 2020, the New Zealand Government decided to change its usual requirement of 30 hours' work per week for stranded RSE workers, who were allowed work part-time for a minimum of 15 hours per week without the usual restrictions on which roles they could perform. Workers permitted to do this were allowed to stay until October while they awaited repatriation. They were required to retain an employment agreement with an RSE employer, which retained responsibility for them and subcontracted them to the new employer (New Zealand, Government of New Zealand 2020b). In August 2020, the New Zealand Government catered for those who had continued with their RSE employers by extending then-current RSE scheme visas by six months, and advised RSE workers wishing to continue working in the country after this period that they could apply to stay longer. The requirement to return home between seasons was also suspended due to the ongoing travel restrictions. Many workers wished to return home, however, and from June 2020, the Royal New Zealand Air Force repatriated more than a thousand RSE workers who had been stuck in the country due to border closures (New Zealand, Defence Force 2020).

From 1 July 2020 until the end of November, the Red Cross partnered with the New Zealand Government to offer a programme called Visitor Care Manaaki Manuhiri, which was designed to provide welfare assistance to visitors stuck in New Zealand due to border closures, including RSE workers. Almost half the applicants were seasonal workers (Bonnnett 2020).

Experienced RSE workers were allowed to return to New Zealand from 1 January 2021 to work in the agriculture and viticulture industries under a border exception (New Zealand, Government of New Zealand 2020a). They were to be paid a "living wage" of NZD22/hour (Hanly 2020). As seasonal workers have returned

to New Zealand from neighbouring countries, the Government has allowed them to transition more flexibly between employers “across seasonal peaks and to meet labour demands for different crops” and workers no longer need to be shared between regions (C. Bedford 2021).

In May 2021, the Government announced a second border exception for RSE workers which would cover the summer season (Bedford 2021). In June 2021, the Government allocated places in MIQ (managed isolation and quarantine) to incoming RSE workers under this second exemption, bringing in around 300 per month until March 2022 (New Zealand, Government of New Zealand 2021).

From July 2021, the Government allowed RSE workers still in the country on an extended visa to apply for a new, more flexible RSE visa (New Zealand, INZ, n.d.-d). The required stand-down period, where workers had traditionally returned home, was removed. Employees could more easily change to other employers, reflecting the seasonal flow of work in industries such as fruitpicking – but when an employee changed to a new employer under their existing RSE visa, the RSE employer designated in the visa remained responsible for the pastoral care of the employee. Changing employers to one not permitted under their RSE visa required employees to seek a new visa, however. After RSE employees served 12 continuous months with one employer – which was not previously possible, given the requirement to return home each year – they became eligible for four weeks of paid leave (New Zealand, INZ, n.d.-a).

Despite support from governments, communities and employers, RSE and SWP workers have faced multiple challenges during the pandemic, including being stranded, experiencing a lack of work opportunities, having to move to new locations and being introduced to new jobs, and being socially separated. Some repatriation flights have also been organized.

Among the survey respondents, the three main impacts of the COVID-19 Pandemic were missing out on the opportunity to move overseas; being stranded overseas, often with less work and less pay and with movements being restricted; and having to return early to the islands.

Concluding analysis and recommendations

The legal analysis of the schemes and the fieldwork findings have resulted in a series of recommendations for consideration concerning the design and implementation of the RSE scheme and the SWP. While some of these recommendations can be directly implemented by Australia and New Zealand, others require a review of the terms of the bilateral labour agreements that establish the SWP and the RSE scheme by engaging participating countries.

It is therefore generally recommended that **both Australia and New Zealand undertake a review of the agreements establishing the SWP and RSE in consultation with participating PICs, unions, workers, employer organizations, employers and civil society organizations.** Such a review should ensure that Australia’s Memoranda of Understanding establishing the SWP and New Zealand’s Inter-Agency Understandings establishing the RSE scheme draw on the Model Agreement on Temporary and Permanent Migration for Employment contained in the Annex to ILO Recommendation No. 86.

It is noted that the New Zealand Government RSE Policy Review will cover a number of the key areas identified below; however, the Inter-Agency Understandings are not specifically under review.

The review should also cover the contents of the SWP Implementation Arrangements issued by the DESE and the RSE Work Policy (WH1) issued by the MBIE. **Both the Implementation Arrangements and the Work Policy should become the subject of consultations between Australia/New Zealand and participating PICs.** These consultations may be convened in the first instance between Australia/New

Zealand and countries of origin negotiating as a group. Further bilateral negotiations may be conducted so that country-specific variations are included in each agreement that reflect the labour migration needs and circumstances of different countries of origin. Unions and union peak bodies, including the Australian Council of Trade Unions and the New Zealand Council of Trade Unions; workers; civil society organizations; and employers and employer associations in Australia or New Zealand and all participating countries should be consulted as part of the negotiation process.

The main recommendations included in the technical report are summarized below by major area. These are elaborated in more detail in the technical report's final chapter.

Pre-departure arrangements

Selection and recruitment:

- Joint technical and financial assistance by Australia and New Zealand to labour sending units in the PICs.
- Strengthen the monitoring and transparency of the selection and recruitment process, including through the involvement of unions where feasible.
- Review the experiences of SWP and RSE workers and employers with labour-hire companies to ensure that there is sufficient industry-appropriate regulation of the activities of labour-hire companies.
- On-arrival briefing by Australian/New Zealand government before workers travel to their employment sites.

Pre-departure briefings:

- Involve trade unions in pre-departure briefings. This will help prospective migrant workers assess whether the conditions in the letters of offer are fair and reasonable, especially in regard to proposed deductions for accommodation, transport and others, and whether piece rates are compliant with national law.

Offer of employment

- Revised standard forms for offers of employment and standard employment contracts.
- Workers should be provided with the option to renegotiate the terms of employment with the assistance of a union or advocate. A process to do so should be clearly defined and explained to workers and employers.
- Strengthen efforts to ensure that LSUs have the tools and information to understand labour laws and industrial relations systems in Australia and New Zealand.

Recruitment fees and related costs

- Review and replace the existing system in order to cover the upfront costs of migration.
- Impose a cap on employer deductions per month.
- Create a system for the repayment of migration-related debt in the event of early return.

On-arrival briefings

- Involve trade unions in on-arrival briefings.

Working conditions and associated recommendations

Pay and pay deductions

- SWP workers in Australia should be classified as full-time fixed-term employees rather than casual workers and receive the minimum standards for full-time employees under the National Employment Standards.
- New Zealand should consider granting RSE workers an exemption to the law that casual employees are entitled to sick leave and bereavement leave only after six months of starting work.
- Workers should be paid an allowance on days when work is called off, for example due to poor weather, but they are still required to be available.
- SWP workers, including those on piece-work rates, should be guaranteed a set minimum wage.
- Amend the existing “net financial benefit” system in Australia and introduce a system in New Zealand guaranteeing minimum payment of a specified dollar amount (subject to yearly review in consultation with workers, employers, unions, LSUs and other stakeholders) over the employment period in New Zealand and Australia.
- RSE and SWP workers’ pay should keep pace with increases in expenses.
- Skilled and experienced workers should be rewarded with a higher rate of pay.
- Revision of pay deductions, as workers now effectively pay all of the costs associated with participating in the RSE and SWP and some are charged to pay for work clothes and personal protective equipment (PPE), work equipment and other facilities at work.
- Investigate employers charging interest rates, as under the RSE and SWP, employers are not supposed to charge interest on repayments.
- SWP and RSE workers should have a right to be financially rewarded through higher wages for previous experience working in the schemes, for participating in skills development and training courses, and for taking on extra responsibilities such as team leaders or drivers. Both the SWP and RSE should create systems for recognition of skills to ensure that workers are able to benefit from increased wages over time and in response to trainings completed.

Leave provisions

- Improve sick leave provisions, as workers in Australia are not eligible for paid sick leave and workers in New Zealand are eligible for paid sick leave only after six months of employment.

Termination

- Implement a procedure to be followed by employers to terminate the contract of an SWP or RSE worker, or to explain a decision not to re-hire a worker for a subsequent season. This need not be an onerous bureaucratic requirement and can be developed to align with existing unfair dismissal laws (note that existing unfair dismissal systems are difficult for workers to access under the current design of the SWP and RSE, since they return to countries of origin upon termination or end of contract). Workers should have the opportunity to review and respond to these reports.

Labour hire companies

- Increase the regulation of labour-hire companies in Australia and New Zealand because labour-hire contractors are currently at the core of compliance problems in the horticulture industry.

Choice of employment

- Australia and New Zealand should explore methods to extend free choice of employment to SWP and RSE workers within the pool of Approved Employers/Recognised Seasonal Employers in each country, as this would provide workers with the ability to report labour exploitation, leave

exploitative workplaces without fear that this will affect their immigration status, and enable workers and worker representatives to bargain for better conditions and pay in response to market needs. Efforts to extend free choice of employment would need to prioritize the protection of workers.

Remittances

- Australia and New Zealand should continue to pilot and where feasible scale-up measures to reduce the cost of remittance transfers to the Pacific.

Training

- Australia and New Zealand should strengthen meaningful vocational training opportunities leading to formal qualifications based on equality of treatment with nationals.

Health and safety

- The national health and safety authority in Australia and New Zealand should undertake a review of the occupational safety and health experience of SWP/RSE workers to ensure equality of treatment and non-discrimination are being adhered to across major industries that employ these workers.
- Implement the recommendations made by the Australian Workers' Union (2021) regarding road safety for all SWP and RSE workers. Namely:
 - o Develop relevant road safety educational materials in consultation with seasonal workers and their representatives.
 - o Ensure that approved employers provide all seasonal workers with relevant road safety educational materials in the appropriate language.
 - o Ensure that approved employers are meeting their safety obligations with regards to the transportation of workers safely to and from work, while properly managing driver fatigue.
 - o Ensure that approved employers provide seasonal workers who are drivers with the proper skills and educational training to ensure that they can safely operate vehicles in Australian conditions.

Living conditions and associated recommendations

Accommodation

- Australia and New Zealand could implement steps to improve enforcement of accommodation standards for SWP and RSE workers to address the current situation wherein some workers are accommodated in sub-standard accommodation.
- Rents should be reasonable both in relation to the wages earned and to the "market rate" for housing in each region.
- New Zealand can consider whether discriminatory accommodation requirements placed on RSE workers in certain regions can be removed and replaced with alternative measures to reduce housing pressures.

Transport costs

- Workers should be charged fair and reasonable rates for transport between the place of accommodation and work, and between the place of accommodation and other amenities.

Welfare services and social life

- The Australian and New Zealand governments should be directly responsible for providing services to support the welfare and wellbeing of SWP/RSE workers and for funding the work of Welfare and Wellbeing Support Persons.
- End curtailments of personal freedom, including restrictions on the consumption of kava during leisure time and restrictions on free movement during leisure time.

Access to healthcare

- SWP/RSE workers should be provided access to the public health system in Australia/New Zealand based on equality of treatment with nationals. Access to medical care is a key part of minimum social protection promoted by ILO standards (ILO Convention No. 102). Discrimination against non-citizens in general with respect to access to universal medical care is permitted by international labour and human rights standards. However, discrimination on the basis of nationality is not permitted.
- If access to the public health system will not be provided, existing private health insurance policies offered to seasonal workers must be urgently reviewed to ensure they meet minimum requirements, including for example the provision of pregnancy care.

Family life

- Pathways to permanent residency and citizenship may be considered. This could be done via skilled visas for returned workers that have a pathway to residency.
- A multi-entry visa for RSE and SWP workers should be introduced to reduce the administrative burden of allowing workers to return home during the season for a family-related event such as the birth of a child.

Equality of treatment and associated recommendations

Membership of trade unions

- Participation of unions, human rights, civil society and women's groups in the recruitment process and pre-departure briefings, when feasible.
- Agreements between unions in origin and destination countries.
- Provide all necessary information and encouraging union membership.

Taxation

- SWP workers should be subject to the same tax rate as Australian residents and citizens to meet obligations regarding non-discrimination with respect to taxation, especially in light of the positioning of the SWP as part of Australia's development assistance budget. The current rate of 15 per cent is significantly higher than the tax rate applied to the equivalent income of Australian residents. A case before the High Court of Australia in June 2021 suggests that differential tax rates for a UK worker under the Working Holiday Visa may constitute discrimination on the basis of nationality. The outcome of this case may have implications for taxes levied on seasonal workers from the Pacific in Australia.
- Australia and New Zealand should consider not levying any taxes on the income of SWP/RSE workers unless there is a change to their entitlements while in Australia/New Zealand.

Superannuation

- The Australian Government should revise the Departing Australia Superannuation Payment process to make it more accessible to SWP workers and tax the superannuation of SWP workers based on equality of treatment with nationals.

Social security

- Extend access to social security to SWP and RSE workers on the basis of equal treatment with nationals.

Access to justice

- The SWP and the RSE scheme should explore introducing new processes to ensure workers can avail themselves of employment protections and redress mechanisms available under the employment legislation in Australia/New Zealand. These processes should continue to be available to workers after they have left Australia/New Zealand.

Monitoring and enforcement

- Australia/New Zealand should review existing procedures through consultation with SWP/RSE stakeholders. In particular, these consultation procedures should support and facilitate the direct involvement of SWP and RSE workers, representatives of LSUs and governments in participating countries of origin, as well as that of unions, employer representatives and other parties. The list of issues on which these advisory groups are to be consulted should be agreed in advance and not determined on an ad hoc basis.
- Before returning to their country of origin, all workers should be provided with an opportunity to provide written and verbal feedback about their employment conditions and employer to an independent third party that will share anonymized feedback to the Australian and New Zealand governments and to employers.

Participation of women and marginalized groups and associated recommendations

Increasing participation of women

- Set industry targets for Approved Employers/Recognised Seasonal Employers regarding the employment rate of women in order to achieve rates that align with current Australian/New Zealand industry participation levels.

Making conditions under the RSE/SWP more conducive for women

- Access to pregnancy benefits and maternity leave on par with nationals should be granted to all SWP and RSE workers, and special measures should be put in place to ensure that workers who take time off for pregnancy and maternity leave are able to complete the duration of their original contracts.
- Information on pregnancy, the obligations of employers and the Australian and New Zealand governments, and the options available to workers should be included in pre-departure materials, be an obligatory part of the explanation of the offer of employment for all workers, and be part of the on-arrival briefing.
- Improve access to free medical advice in Australia and New Zealand concerning sexual and reproduction health and rights, including contraception and treatment in case of violence.

Improve living arrangements for women

- Employers in Australia and New Zealand should ensure that accommodation provided to seasonal workers meets the security and other requirements of women, including bathrooms, living and kitchen facilities that are separate from those of men workers.

Increasing participation of other marginalized groups

- Collect information on the participation of marginalized groups, which at this point is largely anecdotal.

The COVID-19 pandemic and associated recommendations

Seasonal workers during the COVID-19 pandemic

- Australia and New Zealand should ensure that workers do not incur additional costs arising from pandemic-related restrictions on movement, airfares or quarantine.
- Seasonal workers unable to return home should have access to income support measures and universal healthcare.
- All workers should be entitled to paid sick leave as well as income support if required to isolate.

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Annex: List of key stakeholders consulted through direct consultations and joint validation workshops

Fiji

Ministry of Employment, Productivity and Industrial Relations, National Employment Centre, September 2020 (consultation), July 2021 (validation workshop)

Fiji Trades Union Congress (FTUC), September 2020 (consultation), July 2021 (validation workshop)

Kiribati

Ministry of Employment and Human Resource, Labour Division, Employment Unit, September 2020 (consultation), July 2021 (validation workshop)

Kiribati Trade Union Congress (KTUC), September 2020 (consultation)

Samoa

Ministry of Commerce, Industry and Labour, Labour and Employment Export (LEEP) Division, Labour Sending Unit, September 2020 (consultation), July 2021 (validation workshop)

Samoa Workers Congress (SWC), October 2020 (consultation), July 2021 (validation workshop)

Vanuatu

Ministry of Internal Affairs, Department of Labour, Employment Services Unit, September 2020 (consultation)

Vanuatu National Workers Union (VNWU), September 2020 (consultation)

Vanuatu Association of Public Services Employees (VAPSE), July 2021 (validation workshop)

Tuvalu

Ministry of Public Works, Infrastructure, Environment, Labour, Meteorology and Disaster, Department of Labour, October 2020 (consultation)

Australia

Australian Chamber of Commerce and Industry (ACCI), September 2020 (consultation), July 2021 (validation workshop)

Australian Workers Union (AWU), September 2020 (consultation), July 2021 (validation workshop)

Department of Foreign Affairs and Trade (DFAT), November 2020 (interview via Skype), July 2021 (validation workshop)

United Workers Union, September 2020 (consultation)

Department of Education, Skills and Employment (DESE), July 2021 (validation workshop)

Attorney General's Department, July 2021 (validation workshop)

Fair Work Ombudsman, July 2021 (validation workshop)

Australian Council of Trade Unions (ACTU), July 2021 (validation workshop)

New Zealand

BusinessNZ, September 2020 (consultation), July 2021 (validation workshop)

New Zealand Council of Trade Unions (NZCTU), September 2020 (consultation), July 2021 (validation workshop)

Ministry of Foreign Affairs and Trade (MFAT), July 2021 (validation workshop)

Ministry of Business, Innovation and Employment (MBIE), July 2021 (validation workshop)

Seasonal worker schemes in the Pacific through the lens of international human rights and labour standards: Summary report

Promoting the rights of labour migrants and strengthening the sustainable development impacts of labour mobility schemes is a key component of decent work. The ILO Office for Pacific Island Countries has published a summary report reviewing Australia's Seasonal Worker Programme and New Zealand's Recognised Seasonal Employer Scheme through the lens of international human rights and labour standards. Within this scope, the report also includes recommendations on promoting the participation of women and marginalized groups. The objective of the summary report is provide an overview of how seasonal worker schemes in Australia and New Zealand align with international labour standards – both binding and non-binding – and to provide constructive recommendations for areas where the schemes could be more consistent with these standards. The findings and recommendations outlined in the summary report will be expanded upon in a more detailed technical report that is forthcoming. The report was undertaken as part of the Pacific Climate Change Migration and Human Security (PCCMHS) Programme. The PCCMHS programme is implemented by ILO, the International Organization for Migration (IOM), the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), and the Office for the High Commissioner for Human Rights (OHCHR) along with the Pacific Islands Forum Secretariat (PIFS) and the Platform on Disaster Displacement (PDD). The PCCMHS programme receives funding through the United Nations Trust Fund for Human Security and components of the programme are supported by the New Zealand International Development Cooperation Programme.

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