



**RECRUITMENT AND CONSULTING
SERVICES ASSOCIATION
AUSTRALIA & NEW ZEALAND**

Labour Hire Accreditation Scheme

Briefing from On-Hire industry leaders in Canterbury

Submission of

**Recruitment and Consulting Services Association (RCSA) and RCSA
New Zealand Region Council**

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Introduction to RCSA

The Recruitment and Consulting Services Association Australia & New Zealand (RCSA) is the leading industry and professional body for the private employment services sector in New Zealand and Australia which includes recruitment, labour-hire worker and HR services. It represents over 3,000 company and individual Members with over 60% of New Zealand labour-hire/on-hire workers being employed by RCSA members.

RCSA members assign (on-hire) and place employees and independent contractors with businesses, governments and not-for-profit organisations operating within every industry in New Zealand and provide workforce consulting services to improve the productive capacity of New Zealand business in an ever-changing global economy.

Members of RCSA provide advice, information, support and guidance in relation to recruitment, employment and workforce management matters to business and government from small and medium sized business through to multinationals and the National Government.

The RCSA membership is focused on promoting positive outcomes for business, workers and governments across New Zealand. The RCSA sets the benchmark for recruitment and on-hire industry standards through representation, education, and research and business advisory support.

All RCSA member organisations and Accredited Professionals agree to abide by the RCSA Code for Professional Conduct.

RCSA members, as professional employers and work facilitators, operate within the Employment Relations Act with their clients and know it intimately. Their knowledge, understanding, interpretation and support of the aims of the Act are evident in dealings that they have with their clients, employees and independent contractors every day.

The RCSA believe that a progressive and pragmatic approach to the provision of on-hire worker service in New Zealand is, and will continue to be, a key element in the achievement of balanced New Zealand workplaces where vulnerable workers are protected and the workforce and business are free to prosper to provide productivity, wealth and security to New Zealand's workforce and the wider community.

RCSA Code for Professional Conduct

RCSA has a Code for Professional Conduct (the Code) is authorised by the Australian Consumer and Competition Commission (ACCC) and acknowledged by the New Zealand Commerce Commission. In conjunction with the RCSA Constitution and By Laws, the Code sets the standards for relationships between Members, best practice with clients and candidates and general good order with respect to business management, including compliance. Acceptance of, and adherence to the Code, is a prerequisite of Membership. The Code is supported by a comprehensive resource and education program and the process is overseen by the Professional Practice Council, appointed by the RCSA Board. The Ethics Registrar manages the complaint process and procedures with the support of a volunteer Ethics panel mentored by RCSA's Professional Practice barrister.

RCSA's objective is to promote the utilisation of the Code to achieve self-regulation of the on-hire worker services sector, wherever possible and effective, rather than see the introduction of additional legislative regulation.

Employment Services – Definitions and Terminology

The following definitions and service categories were developed by RCSA to promote a better informed marketplace and a more sophisticated understanding of the role and contribution of the employment services sector in a modern economy.

RCSA CORPORATE MEMBERSHIP CATEGORIES OF SERVICE



1

ON-HIRED EMPLOYEE SERVICES

A commercial service where an organisation, in return for an hourly fee, assigns one or more of its employees to perform work for a third party (client) under their general management and instruction.

2

CONTRACTING SERVICES

A commercial service where an organisation, in return for a fee, completes a defined scope of work for a third party (client). Such services may be performed utilising employees or sub-contractors employed or engaged by the service provider.

3

CONTRACTOR MANAGEMENT SERVICES

A commercial service where an organisation, in return for a fee, recruits independent contractors on behalf of a third party (client) and, following direct engagement of the independent contractors by the client, the organisation manages the ongoing supply of the independent contractors and their contract performance.

4

JOB PLACEMENT

A commercial service where an organisation, in return for a fee, recruits on behalf of a third party (client) candidates that match a desired profile for employment or engagement by the client.

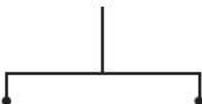
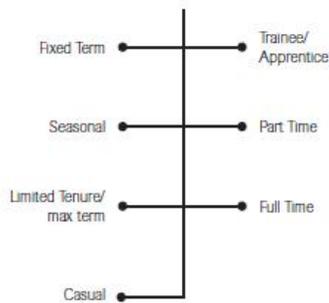
5

WORKFORCE CONSULTING SERVICES

A commercial service where an organisation, in return for a fee, identifies and/or responds to client workforce issues and implements strategies designed to assist clients to achieve business success.



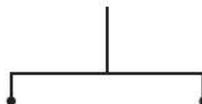
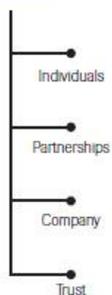
EMPLOYMENT CATEGORIES



MANAGED PROJECT/ CONTRACT SERVICES

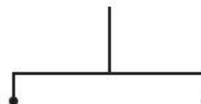


SUB-CONTRACT



INDEPENDENT CONTRACT RECRUITMENT

CONTRACT MANAGEMENT



CANDIDATE PLACEMENT

JOB PLACEMENT SERVICES



OCCUPATIONAL HEALTH & SAFETY

- EEO
- EMPLOYEE RELATIONS
- HR MANAGEMENT
- CHANGE MANAGEMENT
- OUTPLACEMENT
- CAREER MANAGEMENT

RCSA Submission Overview

RCSA's Core Submission

1. A response received from Minister Woodhouse (*letter to Ian McPherson, 17 August 2015*) highlights that changes to the immigration policy was developed in response to 'migrant workers in the Christchurch rebuild being exploited by a few unethical companies'. RCSA believes that exploitation occurs mainly outside of the labour hire industry as illustrated in the findings of audits by the Department of Labour.

RCSA also notes feedback from MBIE which noted the high level of compliance among labour hire companies in Christchurch.

2. RCSA and its members, who are leading Canterbury labour hire companies, are concerned about the introduction of an accreditation scheme for labour hire companies that recruit and employ migrant workers on Essential Skills work visas for work in the construction sector in Canterbury.
3. RCSA and its members support the introduction of measures to protect migrant workers from exploitation by unscrupulous employers. RCSA believes there is now an opportunity to incorporate sound and practical changes that will ensure the effective operation of an accreditation scheme after 1 January 2016.
4. The RCSA Code for Professional Conduct already identifies a number of obligations in regards to the protection of workers, good work environments and the good conduct of members.

Compliance with the RCSA Code is an obligation of membership, and the right of complaint about the conduct of an RCSA member exists via the Disciplinary and Dispute Resolution Procedures.

5. A key tenet of the changes to Essential Skills work visas is the protection of migrant workers from exploitation. The requirement for only labour hire companies to hold accreditation assumes incorrectly that only labour hire companies are responsible for the exploitation of migrant workers. RCSA believes this is not the case.
6. RCSA believes the accreditation scheme will fail to meet the Government's desired outcome to protect migrant workers. The retention of good migrant workers is identified as a benefit of the scheme, however RCSA believes that as migrant workers may change employers multiple times within the duration of their visa, workers will be lured to join non accredited or unregistered labour hire companies with the offer of higher wages and incentives.

RCSA is aware of a number of cases in which workers have moved to unscrupulous employers and are later exploited through poor accommodation, non-payment of statutory obligations and cutting corners on WHS.

7. This presents a disincentive for labour hire companies to apply for accreditation as the likelihood of unscrupulous employers poaching migrant workers with the offer of a few dollars per hour more is high. The movement of migrant workers beyond an accredited agency also greatly increases the likelihood of exploitation and makes the protection of the rights of workers more difficult.
8. The scheme removes employer specific conditions from Essential Skills work visas through to 31 December 2017, and provides the option for existing visa holders to also apply for removal of employer specific conditions on their visa. Under these conditions the worker may be employed by an accredited agency one-day, but leave to work for a smaller unaccredited or unregistered employer the next.
9. Labour hire companies must apply annually for accreditation, whereas an Essential Skills work visa is valid for up to three years. Unscrupulous labour hire companies may apply for accreditation in year one and then not seek reaccreditation in year two, and therefore has no accountability for the protection of the rights of workers for the remainder of an Essential Skills work visa.

Protection of Migrant Workers

The protection of the rights of migrant workers is of paramount importance. ILO Convention 181 identifies measures to ensure adequate protection for the workers employed by member agencies and of user companies¹. RCSA is a member of Ciett (Confederation of Private Employment Agents) which ratifies these measures in its Code of Conduct².

RCSA is a strong proponent for the protection of the rights of workers, and the right of workers to seek work in responsible, productive and safe work environments.

RCSA believes the requirement for only labour hire companies that recruit and employ migrant workers on Essential Skills visas for work in Canterbury to be accredited is counter intuitive and incorrectly assumes that only labour hire companies are responsible for the exploitation of migrant workers.

This requirement overlooks the situation in which a worker may be employed by an accredited agency one-day, but leave to work for a smaller non accredited or unregistered employer the next. The lure of a 'few dollars extra' is already occurring and not expectedly migrant workers are taking-up the offer of extra wages from unscrupulous employers. This distorts the functioning of the labour market as higher wages are generally compensated for through a reduction in other payments or obligations.

Take for example a scenario in which a worker could be employed by an accredited agency one day, but leave for a smaller unaccredited agency or employer the next.

A migrant worker applies for a three year Essential Skills work visa to work with a labour hire company in Canterbury, or is supported by an accredited employer who gets them through the process and into work.

A few days after arriving in Canterbury, another firm offers the worker \$1 more per hour. Lured by the higher wage, the worker is able to leave with no need to worry until the point that their Visa comes up for renewal.

By then, the worker may well no longer be with an accredited firm, but will jump back to one for a couple of months to help them through that renewal process.

Once again, the day after the worker has the visa renewal, he/she can jump again. If the intent is to protect vulnerable workers, the employer-specific conditions should remain and workers required to obtain a variation to their visa, and if they change employer, to move to an accredited company.

Under this legislation, workers can move at will with no regard for whether they are shifting to a good or bad employer, accredited or non-accredited employer. There is no opportunity to monitor this activity and workers can 'go missing in action' beyond their visa expiry.

¹ [ILO Code 181](#) Article 11 and Article 12

² [RCSA Code for Professional Conduct](#)

Market Realities and Costs

There is no incentive – just expense - for recruiters to become accredited. This presents the very real likelihood that Essential Skills visa holders are sponsored in the main by non-accredited employers, which offers no additional protection for workers than exists in the current non accredited environment.

We estimate it costs between \$3000 (conservatively) to \$5000 (more realistic) to recruit a migrant worker and assist them to be work ready. On-hire firms require at least three months before there is any return on this investment. If the worker is ‘poached’ shortly after arriving, there is no scope for an agency employer to achieve any return on this expenditure.

We also believe that larger agencies could go through the process of accreditation and other unscrupulous employers will feed off the market locally with approaches to workers at site level.

These employers could pick workers up without having to go through costly compliance. How does this protect the employee? And why should compliance focused agencies be penalised?

Geographic Boundaries

The geographical boundary doesn’t recognise the actual operational conditions of the on-hire labour and construction market in the Canterbury region. The construction sector frequently requires skilled workers to operate on a daily basis outside the Canterbury boundary as delays, weather and changes in scheduling mean that construction companies are not always able to secure continuous daily work in the Canterbury region. The requirement for sponsored migrant visa holders to only work within the Canterbury region is a further disincentive for employers to seek accreditation.

Monitoring the Movement of Migrant Workers

Removal of employer specific conditions on Essential Skills visas may potentially increase the exploitation of migrant workers as they leave accredited employers and potentially move onto unscrupulous employers that erode and trade protections in return for a few dollars more.

Conclusion and Recommendations

RCSA makes the following recommendations, and requests a meeting with the Minister to review these and to discuss specifics of the suggested revisions to the Labour Hire Accreditation Scheme.

1. All employers and labour hire companies that plan to sponsor Essential Skills visas for work in the Canterbury region should be accredited.
2. Only accredited labour-hire companies and employers should be able to sponsor and employ migrant workers.
3. Employer specific conditions should be retained for new Essential Skills work visas, and the opportunity for existing visa holders to apply to remove employer specific conditions should not proceed. This is an important mechanism to truly protect the rights of migrant workers.

4. Transparency in the supply chain for labour. Accredited labour hire companies and employers should be required to identify all those involved in the supply of labour in a tiered supply or chain of supply arrangement. This is also an important mechanism to protect the rights of rights of migrant workers and the rights of employers.

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