

Compendium of Legislation and Institutional Arrangements for Labour Migration in Pacific Island Countries



This report has been produced as part of the Pacific Climate Change and Migration (PCCM) Project entitled, 'Enhancing the Capacity of Pacific Island Countries to Manage the Impacts of Climate Change on Migration'. The PCCM Project is a three year project (2013-2016) funded by the European Union and implemented by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), the International Labour Organization (ILO) and the United Nations Development Programme (UNDP).

The vision of the project is to:

- To increase protection of individuals and communities that are vulnerable to climate change displacement and migration through targeted national and regional policies; and
- To increase labour mobility opportunities for Pacific Islanders, through well-managed labour migration schemes.

The Project covers the Federated States of Micronesia, Kiribati, Nauru, Republic of Marshall Islands, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. In the 'target countries' of Kiribati, Tuvalu and Nauru the Project will have national actions aimed at institutional strengthening through developing migration indicators and sharing of information on labour migration; gathering data on community attitudes to climate change induced migration; assisting with the development of climate change responses and national action strategies to mitigate the risk of displacement; and enhancing national capacity to effectively participate in regional, bilateral and global schemes on labour migration.

ESCAP

The Economic and Social Commission for Asia and the Pacific (ESCAP) is the regional development arm of the United Nations and serves to foster cooperation between its 53 members and 9 associate members. ESCAP provides the strategic link between global and country-level programmes and issues. It supports Governments of the region in consolidating regional positions and advocates regional approaches to meeting the region's unique socio-economic challenges in a globalizing world. The ESCAP headquarters is located in Bangkok, Thailand.

The ESCAP Pacific Office (EPO) strengthens the United Nations' regional presence, development programmes and interventions in the Pacific. EPO provides focused and in-depth technical assistance to address key development challenges, including capacity-building activities; and serves as a catalyst to further the analytical and normative work of ESCAP in the Pacific.

ILO

The International Labour Organization (ILO) is the United Nations agency devoted to promoting rights at work, encouraging decent employment opportunities for women and men in conditions of freedom, equity, security and human dignity, and enhancing social protection. It is unique in that it brings together representatives of governments, employers and workers to jointly shape policies and programmes and strengthen their dialogue. The ILO develops international labour standards and works with members States to ensure they are respected in practice as well as principle.

The ILO Office for Pacific Island Countries based in Fiji, provides technical assistance to nine Pacific member States, as well as to non-member States in the region as required, on a wide range of areas including: labour migration; the elimination of child labour; promotion of gender equality; labour law reform; protecting seafarers; labour market statistics; occupational safety and health; HIV/AIDs in the workplace; youth employment; and entrepreneurship development.

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UNITED NATIONS
ESCAP

Economic and Social Commission for Asia and the Pacific



EUROPEAN UNION



International
Labour
Organization

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The information contained in each country profile represents a summary of the information the authors have been able to locate. Insofar as each profile contains a description of the legal requirements for entry and stay as migrant workers, or as dependents thereof, the material provided is by way of information only, and is not intended to be legal advice. In this regard the document should be considered a draft.

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INTRODUCTION

Context

Labour migration abroad has a long history in the Pacific and takes many forms, including seasonal migration in Australia and New Zealand through government organized programs; the employment of seafarers on foreign vessels; skilled migrants who spend anywhere from a year to their entire working lives in other Pacific Island countries or in other parts of the world (often working as nurses, peacekeepers, accountants and teachers); and migrants who leave permanently, such as Pacific Islanders eligible to go to New Zealand under the Pacific Access Category. These opportunities are often welcomed by migrants' families, communities and countries of origin, as labour migration can bring a number of important benefits including the transfer of remittances, knowledge, technology and skills that can stimulate development at home. The labour migration of a member of the household can also be an important income diversification strategy for families, to ensure that in case of environmental or other disasters, there remains a source of income which can be used to rebuild homes and livelihoods.

Purpose of Compendium

Bilateral discussions and an understanding of legal and regulatory systems between sending and receiving countries can contribute to more streamlined and harmonized processes for labour migration, thus better enabling workers who want to move, to do so. This mutual understanding can also lead to better outcomes for migrants and their families through countries' cooperation in enforcement of legal provisions protecting workers' rights – whether in sending or receiving countries.

This Compendium of Legislation and Institutional Arrangements for Labour Migration in Pacific Island Countries ('Compendium') is intended to assist in building this understanding by providing a synthesis of information on key aspects of the legal and administrative frameworks and associated practices in eleven Pacific countries. Each profile is introduced by a summary of some key migration trends and characteristics and contains a review of relevant national legislation, regulations and, where possible, policy statements relating to labour migration to and from the country concerned, together with a summary of the relevant institutional arrangements and responsibilities.

It is anticipated that this Compendium will form a valuable resource for policymakers, administrative staff and academics both in the countries covered by this document, as well as countries which are connected to labour migration in the Pacific, including Australia, New Zealand and the US – which comprise the main receiving countries outside of the Pacific region.

Methodology

The methodology employed in the preparation of the Compendium has been primarily a desk-based review of information available on government websites, together with the websites of the Pacific Immigration Directors' Secretariat (PIDSEC) and the Pacific Islands Legal Information Institute (PacLII). This information has been supplemented by communication (via e-mail) with senior officials in the relevant ministries or agencies in each country, as well as with some other stakeholders.

PacLII, an initiative of the University of the South Pacific School of Law, contains legal materials from 20 Pacific Islands countries. It is the most comprehensive on-line collection of regional legislation but subsidiary legislation (regulations) relevant to the entry, stay and employment of migrant workers is often not available. The material available on government websites relating to labour migration is highly variable across the Pacific region.

While in some instances it has proven relatively easy to locate relevant information, this has been true in only a minority of cases and typically only the main legislation is available. It has been a much more complex exercise locating relevant regulations, and other legal instruments, such as official notices and policy documents, are few and far between. In a number of cases, where it has not been possible to locate the relevant regulations, an overview of processes has been derived from a review of the forms employers and migrant workers are required to complete, and by consulting the websites of the country's overseas Embassies or Consulates.

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