



13 February 2024

Tēnā koe

Official Information Act request

Thank you for your email of 11 January 2024, requesting information about Social Security provisions in New Zealand for migrant workers.

Before I respond to your request, it is important to note that a person/body corporate is required to meet the eligibility criteria under [section 12\(1\) of the Official Information Act 1982](#) (the Act) in order to request for official information.

As I am not able to confirm whether you meet the eligibility criteria under the Act, as courtesy, I have decided to grant your request. However, if you wish to make any further requests for information under the Act, I would be grateful if you could provide proof of your eligibility at that time.

Please find my decision on each part of your request set out separately below.

I kindly seek your help as I am looking into social security provisions in NZ for migrant workers. In this respect kindly ask if you could please share with me:

- ***what relevant national legislation applies***

New Zealand employment law applies equally to migrants and New Zealand citizens.

This legislation includes:

- Employment Relations Act 2000
- Holidays Act 2003
- Wages Protection Act 1983
- Minimum Wage Act 1983
- Parental Leave and Employment Protection Act 1987
- Equal Pay Act 1972
- Human Rights Act 1993

A full list of legislation relevant to employment can be found on the Ministry of Business, Innovation and Employment's website at: [Legislation » Employment New Zealand](#).

The relevant legislation regarding New Zealand's Social Security provisions is the Social Security Act 2018. Section 20(d) states that a person is entitled to Jobseeker

support if they meet the residential requirements. Additionally, section 16 states that these requirements include being a New Zealand citizen or holding a residence visa or being recognised as a refugee or a protected person. The full Act can be found online on the webpage: [Social Security Act 2018 No 32 \(as at 01 July 2023\), Public Act Contents – New Zealand Legislation](#).

The Worker Protection (Migrant and Other Employees) Act 2023 is a recent Act that is introducing changes to the Immigration Act 2009, the Employment Relations Act 2000 and the Companies Act 1993 in order to combat the exploitation of migrant workers in New Zealand. More information on these changes can be found on this webpage: [Immigration changes resulting from the Worker Protection \(Migrant and Other Employees\) Act | Immigration New Zealand](#).

- ***Which regional frameworks NZ applies***

The Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Foreign Affairs and Trade (MFAT) have refreshed an existing 2001 Trade and Labour Framework. This framework includes current and emerging issues relevant to work, including modern slavery in supply chains, vulnerable workers, and migrant workers. More information on this framework can be found on MFAT's website at: [Trade, Environment and Climate Change Framework and the Trade and Labour Frameworks | New Zealand Ministry of Foreign Affairs and Trade \(mfat.govt.nz\)](#).

- ***which UN and ILO conventions has NZ ratified?***

New Zealand has ratified a number of United Nations (UN) and International Labour Organisation (ILO) Conventions. Please find below a list of these Conventions that are in force:

UN Conventions ratified by New Zealand:

- CAT - Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
- CAT-OP - Optional Protocol of the Convention against Torture
- CCPR - International Covenant on Civil and Political Rights
- CCPR-OP2-DP - Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty
- CED - Convention for the Protection of All Persons from Enforced Disappearance
- CED, Art.32 - Interstate communication procedure under the International Convention for the Protection of All Persons from Enforced Disappearance
- CEDAW - Convention on the Elimination of All Forms of Discrimination against Women
- CERD - International Convention on the Elimination of All Forms of Racial Discrimination
- CESCR - International Covenant on Economic, Social and Cultural Rights, 1978
- CMW - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- CRC - Convention on the Rights of the Child

- CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- CRC-OP-SC - Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography
- CRPD - Convention on the Rights of Persons with Disabilities

More information on the UN Conventions ratified by New Zealand can be found on the webpage: [United Nations Treaty Collection](#).

ILO Conventions ratified by New Zealand:

- Unemployment Convention, 1919 (No. 2)
- Minimum Age (Agriculture) Convention, 1921 (No. 10)
- Right of Association (Agriculture), 1921 (No. 11)
- Workmen's Compensation (Agriculture) Convention, 1921 (No.12)
- Weekly Rest (Industry), 1921 (No. 14)
- Workmen's Compensation (Accidents) Convention, 1925 (No.17)
- Minimum Wage – Fixing Machinery Convention, 1928 (No. 26)
- Forced Labour Convention, 1930 (No. 29)
- Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)
- Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No.42)
- Unemployment Provision Convention, 1934 (No. 44)
- Forty – Hour Week Convention, 1935 (No. 47)
- Holidays with Pay Convention, 1936 (No. 52)
- Minimum Age (Industry) Convention (Revised), 1937 (No. 59)
- Final Articles Revision Convention, 1946 (No. 80)
- Labour Inspection Convention, 1947 (No. 81). [*Excluding Part II*]
- Social Policy (Non – Metropolitan Territories) Convention, 1947 (No. 82)
- Right of Association (Non – Metropolitan Territories) Convention, 1947 (No. 84)
- Employment Service Convention, 1948 (No. 88)
- Migration for Employment Convention (Revised), 1949 (No 97) [*Has excluded the provisions of Annex I*]
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
- Equal Remuneration Convention, 1951 (No. 100)
- Holidays with Pay (Agriculture) Convention, 1952 (No. 101)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Final Articles Revision Convention, 1961 (No. 116)
- Employment Policy Convention, 1964 (No. 122)
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
- Occupational Safety and Health Convention, 1981 (No. 155)
- Labour Statistics Convention, 1985 (No. 160)

- Worst Forms of Child Labour Convention, 1999 (No. 182)
- Maritime Labour Convention, 2006 (MLC, 2006).

According to ILO Ratifications for New Zealand, 61 Conventions have been ratified by New Zealand. 34 of these are in force. More information on these Conventions can be found on this webpage: [Ratifications of ILO conventions: Ratifications for New Zealand](#).

- ***I would also welcome your advice on where I can find existing Bilateral Labour Agreements and social security agreements (bilateral and multilateral) online.***

New Zealand's bilateral Labour Agreements can be found on the Ministry of Foreign Affairs and Trade's New Zealand Treaties Online webpage at [New Zealand Treaties Online \(mfat.govt.nz\)](#).

New Zealand has bilateral Social Security Agreements with ten countries. These countries are:

- Australia
- Canada
- Denmark
- Republic of Ireland
- Jersey and Guernsey
- Greece
- Malta
- Netherlands
- South Korea
- United Kingdom

Please refer to the Parliamentary Counsel Office's New Zealand Legislation website at [New Zealand Legislation](#) for online copies of New Zealand's Social Security Agreements. More information on these agreements and special arrangements with Pacific countries can be found on this webpage: [Social Security Agreements and special arrangements with Pacific countries - Work and Income](#).

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

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Magnus O'Neill
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