

**Appendix B: Code of Practice for Seasonal Worker
Accommodation referred to in Section 22 of the
District Plan**

Code of practice for seasonal worker accommodation in respect of New Zealand Building Code requirements for access and facilities for people with disabilities

Introduction

This code of practice has been prepared by representatives of the horticulture and viticulture industries with involvement from the Department of Building and Housing, the Department of Labour and representatives of building consent authorities.

Limitations

This code of practice applies only to worker accommodation for horticultural, viticultural and agricultural industries.

Objective

This code of practice seeks to outline agreed industry practice when building or converting buildings to accommodate able-bodied workers, including those in New Zealand under the Recognised Seasonal Employer Scheme (RSE). The code of practice aims to foster a common sense approach to the requirements for access and sanitary facilities for people with disabilities, while preserving access rights established in the Building Act 2004 and the Building Code.

By outlining certain industry undertakings in respect of provisions for people with disabilities in able bodied worker accommodation, the code of practice also seeks to outline a recommended decision making process for building consent authorities that buildings intended to accommodate able bodied workers will comply with the Building Act and the Building Code. This would allow building consent authorities to interpret section 118(1)(a) of the Building Act 2004 in a way that would result in buildings intended solely to accommodate able bodied workers not being required to have access and sanitary provisions for people with disabilities.

By complying with this code of practice and by providing other necessary information and evidence, it is anticipated that applicants for building consents will be able to demonstrate to building consent authorities that persons utilising the accommodations would be able bodied workers only.

For the purposes of this code of practice:

- able bodied worker accommodation is defined as a building intended solely to house temporarily those farm, orchard and vineyard workers who do not require disabled access and facilities
- the certain able bodied workers referred to are those workers undertaking short term seasonal work on farms, orchards and vineyards and who are unable to undertake the required work if they are reliant on disabled access and facilities to carry out their work.

Background

The government introduced the RSE Scheme in April 2007, which allows employers in the horticulture and viticulture industries to alleviate critical seasonal worker shortages by employing temporary migrants, primarily from the Pacific Islands. In the first year, 5,000 places have been allocated, and it is likely that this number will grow as the scheme matures. To be eligible for the RSE Scheme, workers must be fully fit and be able to move without a wheelchair. The need to provide accommodation for RSE workers has led to many employers erecting new buildings or converting or relocating existing ones for this purpose.

The issue has emerged of whether such buildings need to have access and sanitary facilities for people with disabilities. In some cases, the absence of such facilities has led to building consent problems.

In May 2008, the Department of Building and Housing, together with the Department of Labour, hosted a forum with representatives of the horticulture and viticulture industries, as well as building consent authorities, to help facilitate the development of a code of practice for able bodied worker accommodation that would seek to address these problems.

Scope

This code of practice applies to buildings, including new, relocated and altered buildings that are intended solely to accommodate able bodied workers in farms, orchards and vineyards, including those workers who are in New Zealand under the RSE Scheme.

This code applies throughout New Zealand and to buildings of all types, including removable buildings.

This code only applies to buildings intended for "short term accommodation". Short term accommodation is defined as buildings in which no one person will reside for longer than seven months at any one time.

This code does not apply to any building that might be used at any time to accommodate people not engaged in able bodied seasonal work.

Acknowledgement

This code of practice has been developed and endorsed by:

- Horticulture New Zealand
- Trevelyan's, Tauranga
- Seeka Kiwifruit Industries
- Wine Marlborough
- KGI, Bay of Plenty
- Seasonal Solutions, Otago

This code of practice was developed with involvement from:

- Department of Building and Housing
- Department of Labour (Immigration New Zealand)
- Hastings and Marlborough District Council

Code of practice - industry best practice

1. All buildings proposed to accommodate able bodied workers will comply fully with all the relevant clauses of the New Zealand Building Code. The interpretation of section 118(1)(a) of the Building Act 2004 that will be applied in this code of practice will mean that access and sanitary facilities for people with disabilities will not be required where the workers are required by the nature of their employment to be able bodied.
2. Where the buildings will accommodate able bodied workers under the RSE Scheme, the industry will abide by the rules of the scheme and any agreements as to living conditions for workers that have been agreed with the Department of Labour.
3. Any processing or factory facilities will be treated as if there is potential for wheelchair users to access and work in those buildings.
4. In the event that a worker becomes reliant on a wheelchair for movement, or is otherwise disabled, either temporarily or permanently, through accident or illness and requires accessible sanitary or other facilities, the industry accepts that alternative accommodation will be provided for any period for which it remains appropriate for the worker to be engaged.
5. Building owners agree to only accommodate people in able bodied worker accommodation who, by the nature of their employment, do not rely on a disabled access and facilities. In the event that the building is proposed to accommodate other employees or to undergo a change of use so that this code of practice would no longer apply, then the building owner undertakes to approach the relevant territorial authority and to address any additional requirements for the building's new use. This may include triggering the requirement to provide access and facilities for people with disabilities under section 115 of the Act.
6. Any building consent applications for able bodied worker accommodation that intend to refer to this code of practice should be lodged with the code enclosed.
7. Any building consent applications for able bodied worker accommodation under this code of practice must include provide a written statement confirming that the applicant will comply with its policies.