



CONTRACTOR FORUMS 2019



PROGRAM

11:00AM

- INTRODUCTIONS
- WHERE ARE WE HEADING
- UPDATES FROM THE REGULATORS
- NZKGI UPDATE
- ZESPRI UPDATE
- CHANGES TO CONTRACTOR PROGRAM
- CONTRACTOR WEBSITE
- QUESTIONS

2:00PM





CONTRACTOR COMPLIANCE

TEAM

Natalie Milne

INDUSTRY COMPLIANCE PROJECT MANAGER Lesley
Thorne-Large

INDUSTRY COMPLIANCE PROGRAM LEAD Jemma Pryor

RISK AUDITOR

Tamara Dolman

PREHARVEST PROGRAM COORDINATOR

Development and Implementation of Contractor Program Program
Management,
Risk
Management –
Inspectors and
Contractors

Compliance
Investigation
and Risk
Management

Contractor
Registrations and
Support / first
point of contract

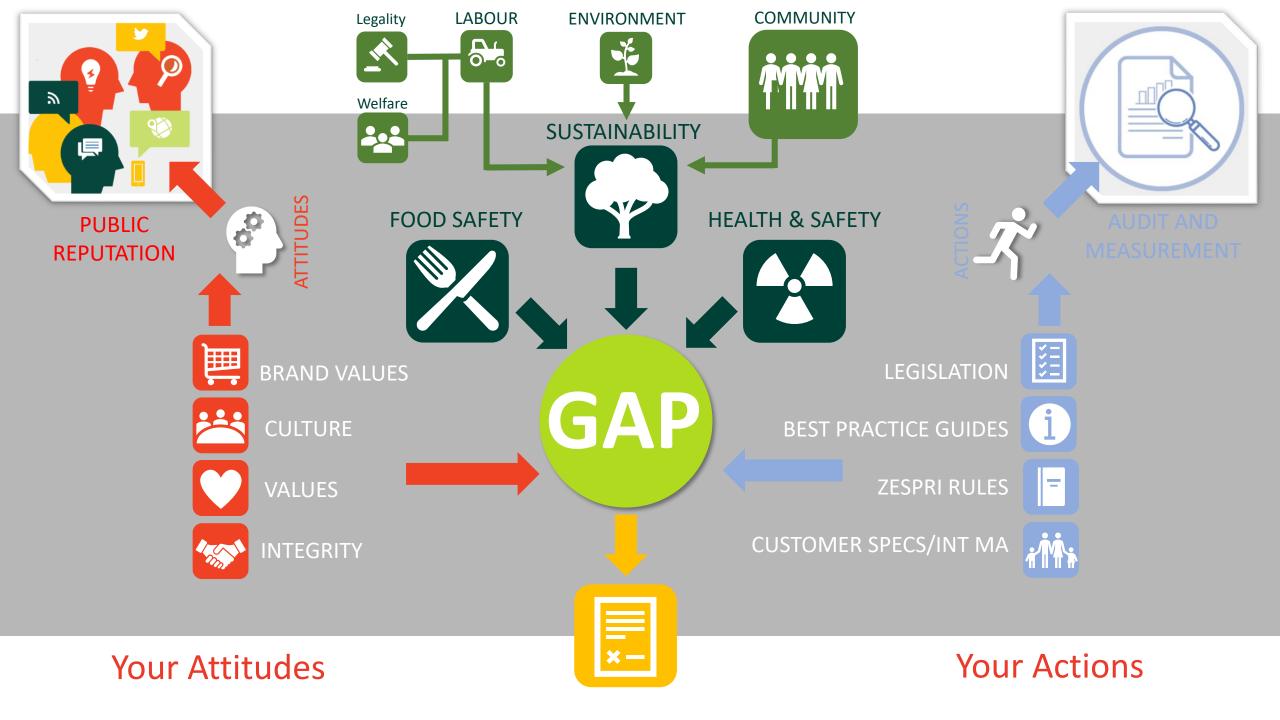


Introductions

- Sheryl Satya Inland Revenue Department
- Alex McGill Labour Inspectorate
- Marian Jamieson and Brent McDonald MSD
- Gavin Stagg NZKGI
- Angus Bell Zespri Health and Safety
- Approved Inspectors
 - Ian Fryer Independent
 - Helen Routley and Chris Mason CME Consulting
 - Georges Feghali SGS NZ Ltd
 - Deidre Johnston, Pam Rose Telarc Ltd
 - Janet Williams Seeka



WHERE ARE WE HEADING?





Kiwifruit Contractor Information Sessions

Community Compliance Team



Our Role

- Provide education & advice
- Seminars
- One-on-one advisories
- Tailored interventions to improve compliance
- Work with other industry stakeholders i.e. NZKGI
- Work with other government agencies, i.e. MBIE,MSD





Current Issues

- >> Complaints from workers
- Poor record keeping
- Misuse of IRD numbers
- Employer not registered for correct tax type
- No-notification rate if no IRD number 46.39% (45% PAYE & 1.39% ACC Levies)





Correct Invoice

Example		
	Incorrect invoice	Correct invoice
Pruning 532 plants @ \$7.00/plant	\$3,724.00	\$3,724.00
1 Ha @ \$1,140.00	\$1,140.00	\$1,140.00
Subtotal	\$4,864.00	
Less schedular tax @ 10%	\$486.40	
Total income (GST exclusive)	\$4,377.60	\$4,864.00
Plus GST @ 15%	\$656.64	\$729.60
Total income (GST inclusive)	\$5,034.24	\$5,593.60°
Less schedular tax @ 10% (\$4,864.00 (GST exclusive) x 10%)		\$486.40
Amount payable (net payment)	\$5034.24	\$5,107.20





What we want to achieve

- Right from the Start
- Sood record keeping
- >> Reduce complaints
- >> Support the industry





Reminders

- Provide all Payers/growers an IR330C
- Certificate of Exemption or Tailored
 Tax Rate
- Obtain IR330's for all workers
- Use the no-notification rate of 46.39%
- >> File and pay tax on time
- Keep good records for 7 years





Need more information

- IR1029 Understanding schedular payments for contractors
- IR330C Tax rate notification for contractors
- IR1008 Record keeping
- IR330 Tax code Declaration
- Seminar information
- MYIR Quick guide





Questions?

Sheryl Satya Community Compliance Officer sheryl.satya@ird.govt.nz
07-927-5382







Minimum Employment Rights and Obligations



Employer Obligations

Employment Agreements

In accordance with the Employment Relations Act 2000, every employee must be provided with a written employment agreement. There are some provisions that must be included in an employment agreement by law and a number of minimum conditions that must be met regardless of whether they are included in agreements.



Employment Agreements must include:

- Legal names of the parties;
- Description of the work to be performed;
- Location of work;
- Hours of Work;
- Remuneration (how much you will be paid);
- Time and a half (T1.5) provision for working public holidays;
- Plain language provision of how to resolve employment relationship problems (incl. 90 day personal grievance (PG) period); and
- Employee protection provision.

Fixed - Term Agreements

- A fixed-term (temporary) employee's employment will end on a specified date or when a
 particular event occurs. A fixed-term employee might be someone who is brought in to replace
 another employee on parental leave, to cover a seasonal peak or to complete a project.
- There must be a **genuine reason based on reasonable grounds** for the fixed term and the employee must be told about this reason.

Casual Employees

Casual employee' isn't defined in employment legislation, but the term is usually used to refer to a situation where the employee has no guaranteed hours of work, no regular pattern of work, and no ongoing expectation of employment. The employer doesn't have to offer work to the employee, and the employee doesn't have to accept work if it's offered. The employee works as and when it suits both them and the employer. This can sometimes happen because it's hard for the employer to predict when the work needs to be done, or when the work needs to be done quickly.

If you are employed to do casual work, the arrangement must be made clear in your employment agreement.

- It's recommended that a casual employment agreement outlines the details of an employee's work hours. This should make clear:
- that there is no guarantee of work on a specific day
- that the amount of work will fluctuate
- how the employer will let the employee know when there is work available
- that the employee doesn't have to make themselves available for work.

Minimum Wage

By Law you must pay at least the minimum wage.

The Adult minimum wage applies to employees aged 16 and over, including home workers, casuals, temporary and part-time workers.

• As from 1st April 2019 the adult minimum wage is **\$17.70** an hour.



Hours of Work

- Records of daily hours must be kept as part of your time and wage records. These must be done on a daily basis not weekly.
- Any agreed hours of work or an indication of the arrangements relating to the times the employee is to work must be in the employment agreement.

If an employment agreement doesn't have a valid availability clause that provides reasonable compensation, then an employee can say "no" to work that isn't part of any guaranteed hours in their employment agreement.

An employer can't disadvantage an employee if they turn down the work. This means that an employer can't:

- refuse or not offer the same employment terms, work conditions, fringe benefits, and training, promotion and transfer opportunities, as other employees with more or less the same qualifications, experience and skills employed in the same or very similar circumstances, or
- dismiss or do anything to an employee that has a negative effect on the employment, job performance or job satisfaction, when other employees employed to do the same type of work aren't treated the same.

Holiday Pay

All employees, regardless of their classification (ie including part time, full time, fixed term and 'casual') are entitled to at least:

- four weeks of paid annual holidays (sometimes referred to as annual leave) after each 12 months of continuous employment for their employer, for rest and recreation.
- For employees who are on fixed-term employment agreements of 12 months or less the annual holiday entitlement can be fulfilled through an additional 8% of gross earnings being added to their regular pay, as long as it is agreed in the employment agreement.
- up to 11 public holidays each year, (if they are days they would otherwise work). These are days of national, religious, or cultural significance, and employees should be able to take them as leave, where possible
- access to sick leave and bereavement leave:
- after six months of current continuous employment with the same employer

Payment for annual holidays is calculated differently from payment for public holidays, alternative holidays, bereavement leave and sick leave. Employers must make sure that each holiday and leave type is calculated correctly.

You can find our leave and Holidays guide here for more information: https://www.employment.govt.nz/assets/Uploads/tools-and-

resources/publications/7395b93810/leave-holiday-guide-employees-legal-entitlements.pdf

Public Holidays

- Employees who do not work on a Public Holiday, but would ordinarily work had it not been a public holiday are entitled to be paid their relevant daily pay or average daily pay.
- You can use our Otherwise working day calculator on our site to help you work through this:

http://apps.employment.govt.nz/holiday-tool/owd.aspx

 If an employee works on a Public Holiday, they must be paid time and a half for the time actually worked. If it was a day the employee would normally work, they are also entitled to an alternative day holiday.



Sick Leave

After **six munths** employment employees are entitled to **five days** paid sick leave a year.

- •You can take sick leave for yourself when sick or injured. You are also able to take sick leave for a spouse, partner, dependent child or parent if sick or injured.
- •Payment for sick leave should be at the rate the employee would ordinarily be paid on the day leave is taken or their average daily pay where applicable.

Bereavement Leave

After **six months** employment employees are entitled to paid bereavement leave of:

- 3 days on the death of a spouse/partner, parent, child, sibling, grandparent, grandchild, or your partners parents.
- 1 day for the death of someone outside the immediate family if the employer accepts that the employee has suffered bereavement.

bereavement leave entitlement do not need to be taken all at the same time. Eg you can take 2 days for the funeral then six months later take the last day for the unveiling of the headstone if you wish.

Ministry of Business, Innovation & Employment

https://www.employment.govt.nz/

- 0800 20 90 20 Contact Centre
 - Labour Inspectorate
 - Mediation Service
 - Access our E-Learning Modules

https://employment.elearning.ac.nz













To maintain and grow the export market Zespri is coming under increased scrutiny from major importers

Quite simply they are expecting each kiwifruit sold through their retail outlets:

- To be of the highest quality
- To have a transparent supply chain, where each kiwifruit can be traced back to:
 - the grower and orchard maintenance
 - the picker
 - the packhouse
 - the cool store
 - the transport to market



One of the key areas they are particularly interested in is:

The use and treatment of workers throughout this supply chain

Should this reputation receive any negative publicity then the ability to sell kiwifruit in these markets will be negatively impacted



- Currently the unemployment rate is hovering around 3.5% in the Bay of Plenty.
- The supply of labour is therefore tight.
- The RSE scheme is in place to assist the industry to meet its need for workers.
- That scheme is NOT in place to provide ALL the workers needed.
- Each year Cabinet makes the decision to cap the numbers of RSE workers coming into the country.



The Ministry of Social Development (MSD) is charged by the government to assist New Zealanders to become Safe, Strong and Independent.

As part of the "Independent" part we have resources to assist New Zealanders into work.

We acknowledge that not all people in receipt of benefit are 100% work ready.

We also acknowledge that the vast majority of them want to work.

A group of these people are OK about working for short periods of time.



What New Zealanders are telling us they want:

- Certainty over work hours and duration
- Fair working conditions
- The tools to do the job expected of them
- Support to do the job training and supervision
- Written agreements over pay rates and conditions before they start



We understand that you, the employer, need to decide how you go about employing and retaining your workers



You can make the decision to:

- Employ New Zealanders and in doing so meet the Grasp and GAP requirements
- Advertise for and employ New Zealanders in accordance with New Zealand Employment law

Risks

- Do not get enough able workers in a timely manner
- Workers cannot get to work reliably and consistently

How to lessen the risks

 Actively partner with MSD to employ New Zealand Global GAP requirements



Partnering with MSD

Talking with us about your plans and what workers you need. Then working with us to overcome any issues that may be there for you.

Some of the solutions could be made up of:

Screening

Understanding what you the employer need and screening out the people who do not meet what you require

Pre-employment training

Soft skills, driver's licence, budgeting etc

Employer-led training and support

In-Work Support

Checking in with you the employer and the employee as to how its going, and assisting with any issues that may arise.

You can make the decision to:

Employ People under the RSE scheme

- To supplement the New Zealanders you have employed or
- Instead of New Zealanders or
- As the core of your workers and then employ a few New Zealanders to supplement them

Risks

Do not get enough able workers in a timely manner Have government agencies scrutinise your business practices Receive no assistance from MSD if requiring RSE / migrant w

How to lessen the risk

Actively partner with MSD to employ New Zealanders and meet the GRASP and GAP requirements



You can make the decision to:

Apply for a person to come in under a work visa

- Need to check the skills shortage list
- Undertake a Labour Market Test
- MSD will undertake a Skills Match Report.

Risks

Adversely impact on the Zespri brand in overseas markets
Tarnish the industry's reputation among New Zealanders as an
employer

Not be able to employ local people

Have government agencies scrutinise your business practices

Receive no assistance from MSD if requiring RSE / migrant workers

How to lessen the risk

Actively partner with MSD to employ New Zealanders and meet the GRASP and GAP requirements



Examples of how we have worked with employers in the kiwifruit industry:

- ✓ advanced people in their driver's licence
- ✓ screened people according to the employer's requirements e.g.
 must be within a certain height range and physical ability
- ✓ Pre-employment training to get people to meet physical needs of the job
- ✓ Pre-employment training in soft skills such as budgeting, working in teams, literacy and numeracy
- ✓ In-work support to assist the person to stay in the job and the employer to deal with any issues that may arise.





LABOUR: ATTRACTION STRATEGY

- Aim: to avoid worker shortage
- \$100,000 investment through grower levies

- Promotional video
- Comprehensive guide the Little Green and Gold Book
- Regular programme of media announcements



- Seasonal workers required: ~18,000
- Forecast shortage:~3,500
- Actual shortage: ~900
- 477 BOP VOC applications

- Social media: total click-through rate of 23,395 with posts getting 762 shares, 882 comments and 5,509 reactions
- Largely positive media coverage



Comments from Seasonal Worker Survey

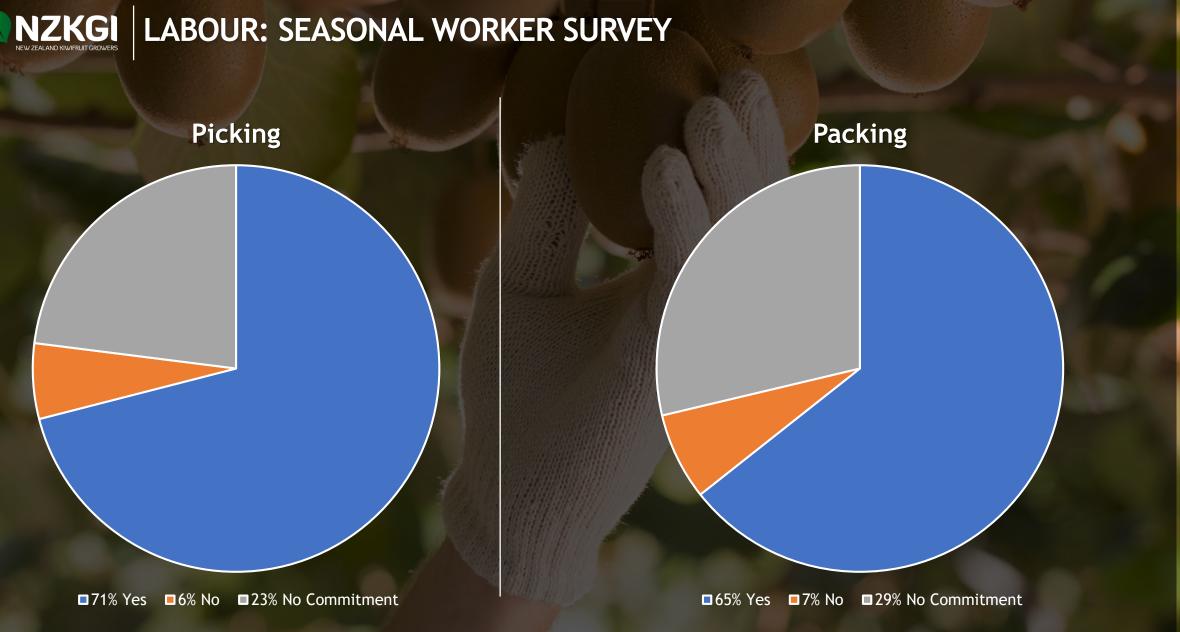
Positive

- "Loved it and loved the people"
- "This is my first time and I love it the staff and worker's are so friendly. I have really enjoyed meeting new people

Negative

- "Supervisors could be more respectful towards workers"
- "They don't care about people, only the money"
- "Its the most unorganized industry I have ever worked in"







NZKGI LABOUR: TYPES OF COMPLAINTS

- Nonpayment of wages
- Late payment of wages
- Being paid below minimum wage
- No pay slips
- No copy of their contract/ agreement
- Holiday pay not being paid
- No Paid breaks



NZKGI LABOUR: NZKGI COMPLAINT PROCESS

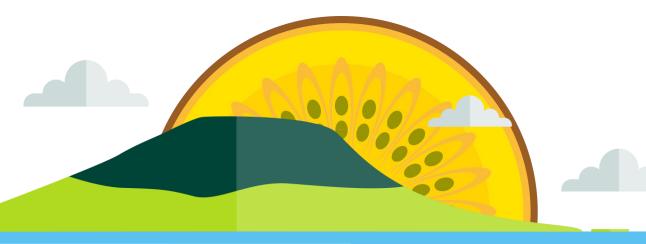
- Receive the complaint
- Collect as much detail as possible
- If the complaint relates to pay work with the employer direct and get a quick resolution for the employee
- Refer to the appropriate body i.e. Zespri, Immigration, Labour Inspectorate, IRD and or NZ police.
- Track progress





2019 Roadshow

Industry Contractors - H&S







<u>Overview</u>

- H&S Landscape
- Roles and Responsibilities
- Grower Expectations of Contractors



H&S Landscape is Changing



- Do not spray if wind conditions are more than a light breeze towards neighbours (wind felt on exposed skin, leaves rustle).
- If there is no shelter, or the shelter is incomplete, use a no-spray buffer of 30 metres to minimise drift onto neighbouring properties, including roads.

on the Canopy > Zespri & The Kiwifruit Industry > Publications > Kiwitech Bulletins > Spraying.

There is also a great Hydrogen Cyanamide Application infographic made by our OPC team. This is located on the Canopy > Growing Kiwifruit > Orchard Productivity > Infographics. Te Puke Sports and Rec

Waikato Hamilton Airport Hotel

14 September Top 10 Holiday Park, N

Zespri

the Grower Man Management Sy

and reviewed before your G the 2018 supply year. Detaile on the changes included will the Crop Protection Forums. above for dates and times.

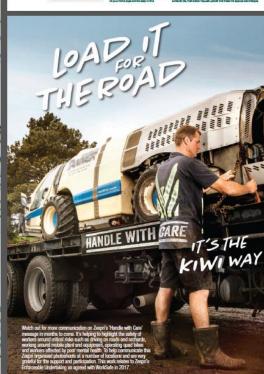
Manua

Crop Protection Standard update

markets, customers' compliance requirements and

The Zespri CPS outlines the most appropriate use of agrichemicals so they are effective on-orchard and acceptable to our customers and consumers. The CPS specifies the products that can be applied to vines, when they can be applied, their appropriate application rates and pre-harvest intervals. The

the ever-increasing awareness of our consumers around chemical residues in their food. We remind growers, managers, spray applicators and contractors to refer to the latest CPS before appeloise as and should be not pelopoly as the Do not assume that last season still current or acceptable for t All applications including the



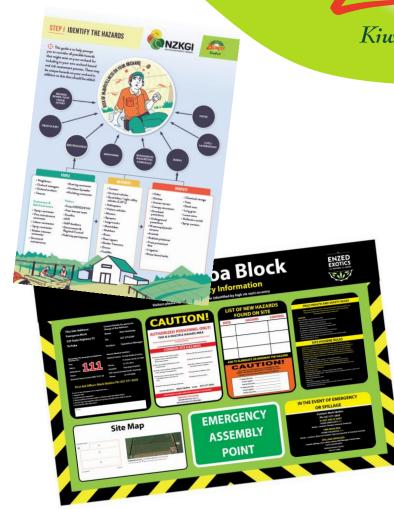


Who's doing what?



Grower Responsibilities

- Orchard Safety Plan/Manual
 - Risk/hazard register
 - Emergency procedures
- Ensure safe structures, plant and equipment (if provided by grower)
- Contractor selection
- Communication/information transfer to contractors
- Regular monitoring of contractors



Responsibilities when Working on Orchards



Contractor Responsibilities

- Safe work procedures
- Trained and competent workers
- Safe equipment (if provided by contractor)
- Communication to workers
- Regular monitoring of workers

(Your Business Name Here) - Safe Work Procedure FORKLIFT TRUCK











Locate and ensure you are familiar with all machine operations and controls.

- Check tyre pressures. Never drive with a flat or ur

OPERATIONAL SAFETY CHECKS

- Ensure the lifting tines are secure into the pallet and the load is stable before lifting or driving off.

- Do not lift a load with the most tilted forward

- Do not attempt to turn on an incline or sloping surface Do not dismount from a forkiff while the engine is
- Do not leave forks elevated when forklift is unattend
- Do not refuel an engine-powered forklift unless the motor is stopped and ignition turned off.



Working on orchard responsibilities



Risk	Likelihood	Consequence	Risk Score	Mitigation	Likelihood	Consequence	Risk Score	Responsible
Chemical Exposure	Probable	High	Very High	 Growsafe Cert for operator MSDS for chemical reviewed Neighbours notified Spray signage put up Correct PPE worn 	Unlikely	High	Medium	ContactorContractorGrowerContractorContractor
Pedestrian hit by tractor	Probable	High	Very High	 Driver training and competency Speed limit for property PPE for pedestrians 	Unlikely	Moderate	Low	ContractorGrowerAll

Contractor H&S Risk Management Example



Contractor Management







Grower Expectations of Contractors







Contractor Program

Key Focus Areas

ISSUES



MINIMUM WAGE NOT PAID

No Breaks / Not Paid

Non-Payment / Late Payments

Holiday Pay not paid correctly or at all

Pay Slips not correct / Recording systems

CASH PAYMENTS

Hygiene Training

No access to talk to staff or avoidance

HEALTH AND SAFETY TRAINING, RISK ASSESSMENT

Misuse of IRD numbers

MULTIPLE COMPANIES / NAMES – IRD BREACHES

Poor Communication

Spray and Agrichemical issues

MISUES OF CASUAL EMPLOYMENT AGREEMENTS

TIME RECORDING SYSTEMS

WRONG WAYS OF MANAGING PERFORMANCE

Non-Compliance Summary to Date



Employee Related – 47%
Health and Safety – 23%
Systems Implemented – 23%
Other 7%

What Actions we are taking

Zespri Kiwifruit

All complaints are followed up

- Investigations
- Continue monitoring / Red Flag
- On-reported to IRD
- Immigration NZ investigating
- Sanctions issued



What you are required to do

- Update your details on-line every year industry.Zespri.com
- Have an annual GAP Inspections <u>before</u> your CAV expires
- Maintain your compliance at all times whilst you are operating under your CAV
- Be available for additional inspections by Zespri or Regulators
- Ensure your staff are available for questions also

And remember You cannot operate without a CAV – and we will take action when we find this





Program Update and Changes to Contractor Program



Upcoming changes to Contractor Compliance program

At Registration

- Background checks
- Compulsory questions and disclosures
- Registration timeframe will increase until all due diligence is completed allow up to 2 weeks
- Registration may not be granted if criteria not met

Disclosure

- Request disclosure/notification to Zespri of any investigations or audits by regulators including outcomes
 - This relates to activities in other businesses also
- Self reporting to Zespri of MAJOR non-compliances identified

Upcoming changes to Contractor Compliance program



Audit requirements will change from 1 October 2019

for New contractors

- tiered program 3 tiers desk audit, follow up system audit, on-site audit
 - Interim CAV issued until all steps are completed maximum 12 weeks
 - If change of ownership new owner will need to go through process again CAV not transferable

Interim CAV can be revoked at any time during this period if non-compliant
This is best practice - will ensure new contractors systems are fully implemented and understood

for renewing Contractors

- Documentation and System audit minimum requires
- Additional on-site audit required based on risk (previous inspection, non-compliance, reports, etc)

Changes we have made:



- Compulsory Registration
 - Zespri Supplier Code of Conduct now included
- Focus during Inspection on
 - Systems implementation not just template checking implementation and understanding is key
 - deeper checking of regulatory requirements e.g. withholding tax; stand down list;
 - Improved risk monitoring and notifications





Contractor Website

Industry.Zespri.Com



industry.zespri.com

- Your website
- Must be Registered to access all content
- Education and Resource tool
- Built to assist you meet your requirements and help you understand your responsibilities

Reporting Issues



If you have any concerns about on-orchard practices you can contact Zespri or NZKGI in the following ways:

- Phone: 07 572 6464
- Email: compliance.mail@zespri.com
- Zespri Speak Up Line the following is a link to a confidential reporting line https://secure.ethicspoint.eu/domain/media/en/gui/102184/index.html
- NZKGI Gavin Stagg Labour Coordinator
 - 0064 7 574 7139
 - gavin.stagg@nzkgi.org.nz
 - https://www.nzkgi.org.nz/contact/

Please provide as much information as you can relating to the issue, i.e. dates, times, address, names, full details of what the issue is



