



Now and Tomorrow, Excellence in Everything We Do

Temporary Foreign Worker Program

Overview

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Temporary Foreign Worker Program (TFWP)

- TFWP contributes to the efficiency & flexibility of Canada's labour market
 - Facilitates employers' access to foreign nationals to fill skills and labour shortages when Canadians and permanent residents are not available
- Governed by *Immigration and Refugee Protection Act and Regulations (IRPA/R)*
 - Regulates entry of all foreign nationals to Canada and their ability to work during their stay
- Co-managed by CIC and ESDC
 - ESDC issues Labour Market Impact Assessments (LMIAs) at the request of CIC or employers
 - CIC assesses work permit and visa applications overseas and in Canada
- Canada Border Services Agency (CBSA) makes final decision on admissibility of all foreign nationals to Canada & issues work permit at Port of Entry (PoE)

Background

A decorative header image showing a row of light blue silhouettes of various people, including a person in a wheelchair, a person with a cane, and a person with a stroller, representing diversity and accessibility.

- TFWP has undergone significant changes in the past number of years & more recently as part of TFWP Reform
- 2011 regulatory amendments to strengthen Labour Market Impact Assessment (LMIA) application process & integrity
 - New requirements to assess genuineness of job offer
 - Employer compliance reviews introduced as part of LMIA assessment
 - Maximum cumulative duration of four years of work for most TFWs (CIC)
- 2012 Economic Action Plan (EAP)
 - Launch of TFWP Review to better align the Program with labour market demands and to ensure businesses look to domestic labour force first
- 2013 – First series of reforms - administrative, regulatory and legislative changes, including:
 - Suspension of the Accelerated Labour Market Opinion process
 - English and French only languages that can be used as a job requirement
 - Introduction of \$275 LMIA processing fee (per position)
 - New authority to impose conditions on employers and inspect compliance
 - Ministerial Instructions (MIs) to suspend, revoke LMIA applications or refuse to process LMIA applications

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TFWP Overhaul

- June 20, 2014: significant changes announced as a result of TFWP Review
- Re-organization - two distinct programs
 - (1) International Mobility Program (IMP)**
 - LMIA-exempt & led by CIC
 - (2) TFWP**
 - Requires LMIA & led by ESDC
- TFWP Reform - three main pillars
 - Restricting Access to the TFWP
 - Ensuring More and Better Labour Market Information
 - Stronger Enforcement and Implement Tougher Penalties

(1) Restricting Access to TFWP

- Program replacing low/high skill with low/high wage
 - Low wage: Capping the number of I TFWs who can be hired
 - High wage: Plan outlining transition to Canadian work force
- New, more rigorous LMIA process to ensure Program used as last resort
- Increased user fee from \$275 to \$1,000 per position to ensure full cost recovery for Program
- No LMIA issued to employers seeking TFWs in regions of high unemployment for:
 - Lowest skill, lowest wage occupations in accommodation, food services and retail trade sectors
- Reduced duration of LMIA for low-wage positions (2 years to 1 year)

(2) Ensuring More & Better Labour Market Info

- New Job Matching Service to link employers with qualified Canadians in their area
- New Statistics Canada survey to better assess labour market shortage and prevailing wage comprised of both:
 - Quarterly Job Vacancy Survey
 - will collect information on occupations in demand, job openings, the duration of job vacancies, educational requirements for occupations and other pertinent data
 - Annual National Wage Survey – to better assess prevailing wage
 - will provide reliable data broken down by province/territory, by Statistics Canada Economic Region, and occupation.
- Better use of existing government data
 - Improved tools to assess labour market tightness (e.g. use of Employment Insurance (EI) program and other internal sources)



(3) Stronger Enforcement and Implement Tougher Penalties

- Increasing number and scope of inspections
 - 1 in 4 employers will be inspected each year
 - All conditions may be reviewed
- Increased detection and monitoring
 - Service Canada Confidential Tips line (1-866- 602-9448)
 - Online Fraud Reporting Tool
(<http://www.servicecanada.gc.ca/eng/about/integrity/online.shtml>)
- Improved information sharing with enforcement partners
 - New and updated information sharing agreements with provinces and territories
 - Enhanced authority for ESDC to share information with CIC & CBSA
- More criminal investigations will be conducted by CBSA
- More severe consequences for employers who break the rules
 - Administrative monetary penalties (AMPs)
 - Varied bans

Going Forward



- Stakeholder outreach & consultations will continue
 - AMPs & varied bans – discussion paper process well received
 - Over 300 targeted emails sent; plus call for comments via WEB
 - One-on-one consultations, including CBA, KPMG, Green & Spielberg, etc.

- WEB service
 - Redesigning to accommodate latest regulatory amendments (high/low wage) & continuing to expand
 - Short Term (next 6 months):
 - High/Low Wage Streams Implementation and Web Service Redesign - January 2015
 - Express Entry: FSTP/FSWP/CEC – July 2015 or before

- Upcoming legislative proposals in Budget Implementation Act II
 - Change “Opinion” to “Assessment”
 - Requiring documents from third parties (during inspections)
 - Privilege Fee for employers who receive positive LMIA's (different from LMIA processing fee)
 - Publish names of employers found guilty of an offence under IRPA or under Federal, Provincial, Territorial Employment law (regulations will identify offences & render employers ineligible to access Program)
 - Use of Social Insurance Number

Best Practices for Employers

- Review LMIA and its annex to ensure it is what agreed to & that understood. Do not use LMIA if not what agreed to
- Retain all documents to demonstrate accuracy of LMIA application and that conditions are being met (6 years)
- Transition plans: Ensure commit to concrete, realizable goals
- Contact the Employer Call Centre (who will refer to appropriate officer) before making any changes to conditions set out in the LMIA letter and annexes:
 - Toll-free within Canada and the United States: 1-800-367-5693
- Self-review: Regularly review that conditions agreed to in LMIA & annex are being upheld
- Cooperate with ESDC for ECRs, inspections, reviews under Ministerial Instructions
- Work only with authorized third-parties
- Regularly check the TFWP website for updates and changes
- Inform temporary foreign workers of their rights: <http://www.cic.gc.ca/english/resources/publications/tfw-rights.asp> (available in 7 languages)
- Report abuse: 1-866- 602-9448 OR <http://www.servicecanada.gc.ca/eng/about/integrity/online.shtml>