

Service Canada

The Labour Market Opinion Process

Outline

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Temporary Foreign Worker Program

- Canadian employers hire foreign workers to help address skill and labour shortages.
- Service Canada and Citizenship and Immigration Canada (CIC) ensure that foreign workers will support economic growth in Canada and help create job opportunities for all Canadians.

IRPA Regulation 203(3)

- Regulation 203 of the Immigration and Refugee Protection Act (IRPA) provides Service Canada with its legislative authority to assess the job offer and issue a formal Labour Market Opinion (LMO) to Citizenship and Immigration Canada

Applying for a Labour Market Opinion: Preliminary considerations

- Based on R203(3) “The Six Factors”
 - 1) Job creation or job retention for Canadian citizens or permanent residents.
 - 2) Creation or transfer of skills and knowledge for the benefit of Canadian citizens or permanent residents.
 - 3) Filling a labour shortage

Applying for a Labour Market Opinion:

Preliminary considerations (cont)

- 4) Wages are consistent with the prevailing wage rate and the working conditions meet generally accepted Canadian standards.
 - Wage ranges in advertisements
 - The wage range must always include the prevailing wage for the position.
 - Wages and unionized positions
 - Benefits provided to Canadian workers or permanent residents must be extended to temporary foreign workers.
 - In order to address unique circumstances, HRSDC/Service Canada maintains the discretion to set the prevailing wage rate that an employer must offer, whether or not the position is covered by a collective agreement.

Applying for a Labour Market Opinion:

Preliminary considerations (cont)

- 5) Employer has made reasonable efforts to hire or train Canadian citizens or permanent residents.
- All occupations are subject to the same minimum advertisement requirements based on the [National Occupational Classification \(NOC\)](#) system, skills levels O, A, B, C and D. Failure to comply with the requirements outlined below will result in the application for a LMO being denied.
 - For minimum recruitment requirements, see: http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/advertrecrutment.shtml

Applying for a Labour Market Opinion: Preliminary considerations (cont)

NOC 0 & A:

- Conduct recruitment activities **consistent with the practice within the occupation** (e.g., advertise on recognized Internet job sites, in journals, newsletters or national newspapers or by consulting unions or professional associations);

or

- Advertise on the national **Job Bank** for a minimum of fourteen (14) calendar days, during the three (3) months prior to applying for a LMO.

Applying for a Labour Market Opinion:

Preliminary considerations (cont)

NOC B:

- Conduct recruitment activities **consistent with the practice within the occupation for a minimum of fourteen (14) calendar days** (e.g., advertise on recognized Internet job sites, in journals, newsletters or national newspapers or by consulting unions or professional associations);

and

- Advertise on the national **Job Bank** for a minimum of fourteen (14) calendar days during the three (3) months prior to applying for a LMO.

Applying for a Labour Market Opinion: Preliminary considerations (cont)

NOC B:

- Recruitment must contain the following:
 - the company operating name;
 - job duties (for each position, if advertising for more than one vacancy);
 - wage range (i.e. an accurate range of wages being offered to Canadians and permanent residents).
The wage range must always include the prevailing wage for the position – see “wage rate”;
 - the location of work (local area, city, or town); and
 - the nature of the position (i.e. project based, or permanent position).

Applying for a Labour Market Opinion:

Preliminary considerations (cont)

Recruitment variations:

- a) **Specialized service technicians / Specialized service providers**
 - *When the work requires a specialist having proprietary knowledge and/or experience related to the work to be performed - duration of the work is limited and there is no opportunity for Canadians to be trained.*
- b) **Warranty Work**
 - *When the work entails installation, inspection or repair of equipment, and the terms of the warranty require the work to be done by skilled workers designated by the manufacturer.*

For all variations to the minimum recruitment requirements, see http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/Imodir/variation.shtml#a14

Applying for a Labour Market Opinion:

Preliminary considerations (cont)

- 6) Employment of the foreign worker is likely to adversely affect the settlement of any labour dispute in progress or the employment of any person involved in the dispute.

LMO Application Process

- **Check with the TFU (CIC) about exemptions!**
- **Step 1:** The employer completes the form “Foreign Worker Application for a Labour Market Opinion.”
EMP5239
- **Step 2:** The employer submits a complete application to the nearest Service Canada Centre that processes Foreign Worker Applications or [online](#).
- **Step 3:** Service Canada reviews the application according to criteria noted previously, and develops a Labour Market Opinion.

LMO Application Process (cont)

- **Step 4:** Service Canada sends a written letter with results from the Labour Market Opinion assessment to the employer, who then communicates the results to the foreign worker.
- **Step 5:** In the case of a positive/neutral Labour Market Opinion, the employer sends a copy of the confirmation letter to the foreign worker.
- **Step 6:** The foreign worker applies to Citizenship and Immigration Canada for a work permit, attaching a copy of the confirmation letter.
 - For more information on the Government of Canada's Temporary Foreign Worker Program and how to hire foreign workers, visit the [Temporary Foreign Worker Program](#) or Citizenship and Immigration Canada at [Working temporarily in Canada](#).

LMO validity = 6 months

- Labour Market Opinions (LMOs) issued to employers will be valid for the purpose of work permit applications for a **maximum of six months from the date of issuance.**
- A LMO that is not submitted to Citizenship and Immigration Canada (CIC) to support a work permit application within the maximum six-month period will be deemed to have expired. The employer will be required to apply for a new LMO if he/she still wishes to hire a temporary foreign worker.

Third Party Representatives

LMO Applications submitted by Third Party Representatives

- Act on employer's behalf in dealing with Service Canada and/or to recruit workers from abroad

Employers are responsible for:

- Ensuring that the third party they have selected is adequate to meet the employer's needs
- Truth and accuracy of the information provided to Service Canada
- "Appointment of Representative" Form

Tripartite Employment Arrangements

- Definition: When an employer retains the services of a third party (“agency”) to find, recruit, supply and/or pay temporary foreign workers
- Potential “players” include: the Employer (end-user), the Agency, the Third-Party Representative applying for the LMO, the Foreign Worker
- **For the purposes of the TFWP, the end-user (ultimate beneficiary of the tasks performed by the foreign worker) will be deemed the employer on the LMO**

Tripartite Employment Arrangements (cont.)

- Required documentation:
 - Appointment of representative form (EMP 5239) if applicable
 - Name of the agency; description of primary business
 - Copy of contract/agreement between:
 - Employer and Agency
 - Agency and Foreign Worker
 - Offer of employment to the Foreign Worker
 - Name of organization that will be issuing payment for the remuneration of the worker
 - Wages, benefits and working conditions
 - **Foreign worker must provide this documentation to CIC upon application for the Work Permit as well**

Monitoring Initiative

- Since April 27, 2009, employers have been asked to participate in the Monitoring Initiative.
- **The Initiative is designed to strengthen the integrity of the Temporary Foreign Worker Program.**
 - Gain a better understanding of your responsibilities as an employer of temporary foreign workers.
 - Opportunity to demonstrate your good-standing with the program, which may be considered in the assessment of future Labour Market Opinion application(s).

Monitoring Initiative: Employer Participation

- You may be asked to:
 - Submit documentation demonstrating that you have respected the terms of the offer(s) of employment (e.g. wages, working conditions, etc.) for the TFW(s) you hired;
 - Report to Human Resources and Skills Development Canada/Service Canada (HRSDC/SC) any recent and anticipated arrivals, lay-offs and/or departures of Canadians, permanent residents, and TFWs. (This information will help us monitor the continued need for TFWs and ensure that Canadians and permanent residents are considered first for job opportunities.); and
 - Allow HRSDC/SC officers to enter the workplace for on-site consultations.

LMO processing

Post April 1 2011

- Effective April 1 2011 (applications date stamped April 1)
- In addition to the standard requirements under each program stream, HRSDC/Service Canada will now have the authority to conduct a **genuineness assessment** of any job offered to a TFW and to **verify that returning employers have lived-up to employment requirements stipulated in previous LMO**. Employers may be asked to submit additional documentation to support their LMO application.
- For more information, see http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/lmo_irpr.shtml

Other Service Canada Employer Service Offerings

- Record of Employment on the Web (ROE Web)
 - http://www.servicecanada.gc.ca/eng/ei/employers/roe_web.shtml
- Work Sharing
 - http://www.servicecanada.gc.ca/eng/work_sharing/index.shtml
- Job Bank
 - <http://www.jobbank.gc.ca/Intro-eng.aspx>
- Canada Summer Jobs
 - <http://www.servicecanada.gc.ca/eng/epb/yi/yep/programs/scpp.shtml>
- Working in Canada
 - www.workingincanada.gc.ca
- Labour Market Monitors
 - <http://www.servicecanada.gc.ca/eng/on/offices/lmb.shtml>
- **For links to other Government of Canada services to Employers:**
 - <http://www.servicecanada.gc.ca/eng/audiences/employers/index.shtml>

Temporary Foreign Worker - ON Contact information

Phone Numbers:

General Enquiries: 416-954-3111

Toll Free: 1-866-556-5518

Fax:

Local: 416-954-3107

Toll Free 1-866-720-6094

Online:

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_worker_s/index.shtm

Mailing address:

Foreign Worker Programs

P.O. Box 6500, Toronto LCD

Downsview A, Toronto, ON

M3M 3K4

HRSDC/SC Resources

- Information on IRPR amendments

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/each_stream.shtml

- Website Homepage:

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/index.shtml

- Monitoring Initiative:

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/whatsnewmonitoring.shtml

- Minimum advertising requirements:

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/advertrecrutment.shtml

- Tripartite Employment Arrangements

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/lmodir/lmodir-10.shtml#a104