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Changes to Temporary Foreign Worker Program Announced

[Deborah Cushing](#)

Employment Minister Jason Kenney and Immigration Minister Chris Alexander today announced significant reforms to the Temporary Foreign Worker Program (“TFWP”). The TFWP is being reorganized into two streams: the TFWP administered by Employment and Social Development Canada (“ESDC”) and the International Mobility Program administered by Citizenship and Immigration Canada (“CIC”). The changes to the TFWP reinforce the federal government’s position that the TFWP should be a program of last and limited resort for employers.

Temporary Foreign Worker Program

The changes to the TFWP include the following:

- The Labour Market Opinion process is replaced by a Labour Market Impact Assessment (“LMIA”) process which will require additional information from employers about their recruitment efforts. ESDC will refuse to process applications where temporary foreign workers may have a negative effect on the Canadian labour market.
- Effective immediately, the processing fee for the LMIA will increase from \$275 to \$1,000 per position. An additional “privilege fee” of \$100 may also be put into effect to offset the costs of investments in skills and job training.
- The TFWP will be administered based on wage instead of occupational classification. Temporary foreign workers who are paid at less than the reported provincial/territorial median wage will be considered low-wage. For example, the median hourly wage in British Columbia is \$21.79, in Alberta is \$24.23 and in the Northwest Territories is \$32.53. Workers paid below the median rates will be considered to be in low-wage positions.
- A cap will be placed on the number of low-wage temporary foreign workers per worksite location. An employer applying for a new LMIA who has 10 or more employees will be subject to a temporary foreign worker cap of 10% of the workforce at a location. This cap will be phased in until July 2016 for employers who are currently over the 10% cap.
- The moratorium on the food services industry is lifted. However, effective immediately, ESDC will not process LMIA applications for specified occupations in the accommodation, food



Deborah Cushing

604.631.9282

dcushing@lawsonlundell.com

services and retail trade sectors in economic sectors where the unemployment rate is at or above 6%.

- The maximum duration for a work permit for low-wage positions will be reduced from two years to one year effective immediately. The government has also announced that the total duration that a temporary foreign worker in a low-wage position may remain in Canada will be reduced from four years but has not yet identified the new maximum. This change will come into effect in the summer of 2015.
- For high-wage positions, the employer will be required to submit a transition plan with the LMIA application to identify steps to be taken to reduce reliance on temporary foreign workers over time.
- LMIA applications for positions in highest demand (skilled trades) occupations, highest paid occupations (top 10% in a province or territory), or shortest duration occupations (120 calendar days or less) will be processed within 10 business days.
- Exceptions which were in place for pilots will be tightened.
- Enforcement activities will be increased. One in four employers using the TFWP will be inspected each year. Beginning in the fall 2014, fines of up to \$100,000 may be imposed on employers who violate the terms of the TFWP.
- There are certain exemptions from the reforms for the on-farm primary agriculture and live-in caregiver programs.

International Mobility Program

- The International Mobility Program (IMP) will include all work permit applications that are LMIA-exempt, such as work permits under international agreements such as NAFTA and under working holiday programs.
- In the summer of 2015, a compliance fee of \$230 will be put into effect where a work permit is employer specific and LMIA-exempt in addition to the work permit processing fee. A “privilege fee” of \$100 will be put into effect for open work permits to allow for improved data collection on the employment of open work permit holders and to increase awareness of Canadians of the opportunities to live and work abroad.
- The government will undertake a comprehensive review of work permits which are LMIA-exempt. New and more restrictive guidelines for intra-company transferees with specialized knowledge have been put into effect.

Key Contacts

Patricia Gallivan, Q.C.

(T) 604.631.6718

(E) pgallivan@lawsonlundell.com

Rob Sider

(T) 604.631.6722

(E) rsider@lawsonlundell.com



Team Members

Name	Phone	Email
Katy Allen	604.631.9198	kallen@lawsonlundell.com
Deborah Cushing	604.631.9282	dcushing@lawsonlundell.com
Clara Ferguson	604.631.9175	cferguson@lawsonlundell.com
Patricia Gallivan, QC	604.631.6718	pgallivan@lawsonlundell.com
Sandra MacKenzie	867.669.5503	smackenzie@lawsonlundell.com
Ritu Mahil	604.631.9156	rmahil@lawsonlundell.com
Rob Sider	604.631.6722	rsider@lawsonlundell.com
Nicole Skuggedal	604.631.6795	nskuggedal@lawsonlundell.com

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Vancouver

Suite 1600, Cathedral Place
 925 West Georgia Street
 Vancouver, British Columbia
 Canada V6C 3L2
 (T) 604.685.3456
 (F) 604.669.1620

Calgary

Suite 3700, 205-5th Avenue S.W.
 Bow Valley Square 2
 Calgary, Alberta
 Canada T2P 2V7
 (T) 403.269.6900
 (F) 403.269.9494

Yellowknife

P.O. Box 818
 Suite 200, 4915 – 48 Street
 Yellowknife, Northwest Territories
 Canada X1A 2N6
 (T) 867.669.5500 Toll Free: 888.465.7608
 (F) 867.920.2206

