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# Temporary Foreign Worker Program (TFWP)

March 2014





# Presentation Topics

- What is the Temporary Foreign Worker Program?
- National Occupational Classification (NOC)
- Processing Fee
- LMO Process
  - Labour Market Factors
    - Wages
    - Recruitment & Advertising
- Employer Compliance Reviews (ECRs)
- Recent regulatory amendments

A decorative header image showing silhouettes of a diverse group of people, including men, women, children, and individuals with disabilities, walking in a line. The silhouettes are light blue and set against a white background.

# What is the Temporary Foreign Worker Program?

- TFWP enables Canadians to hire foreign workers on a temporary basis to meet immediate and short-term skills and labour needs when Canadians and/or Permanent Residents are not available.
- Requires employers to show that they have made every effort to fill their skills and labour needs with Canadians and/or Permanent Residents prior to the consideration of a foreign national

A decorative header image showing silhouettes of various people, including a person in a wheelchair, a person with a stroller, and a group of people, set against a light blue background.

# What is the Temporary Foreign Worker Program?

- The Temporary Foreign Worker Program is jointly managed by Citizenship & Immigration Canada (CIC) and Employment and Social Development Canada (ESDC)/Service Canada
- At the request of CIC, Service Canada assesses the impact a foreign national will have on the Canadian labour market
- This assessment is known as a Labour Market Opinion (LMO)

A decorative header image showing a row of light blue silhouettes of various people, including men, women, children, and individuals with disabilities, representing a diverse population.

# What is the Temporary Foreign Worker Program?

- Employers can apply to hire a foreign worker in one of the following streams:
  - Agricultural Workers
  - Live-In Caregivers
  - Lower-Skilled Occupations
  - Higher-Skilled Occupations
- Each stream has their own specific requirements



# National Occupational Classification (NOC) system

- National tool used by TFWP to classify occupations
- Occupations are identified and grouped primarily according to the work performed, as determined by the tasks, duties and responsibilities of the occupation.
- Occupations are typically classified into Higher-skilled occupations and Lower-skilled occupations

# NOC system – continued

A decorative header image showing a row of light blue silhouettes of various people, including men, women, children, and individuals using a wheelchair, representing a diverse population.

- Higher-skilled occupations are classified as:
  - NOC 0/A: Management and Professional Occupations
  - NOC B: Technical and Trade Occupations
- Lower-skilled occupations are classified as:
  - NOC C/D: Occupations Requiring Lower Levels of Formal Training
- Website:  
<http://www30.hrsdc.gc.ca/NOC/English/NOC/2006/Welcome.aspx>

# Processing Fee

- Employers must pay a \$275 processing fee for each position to cover the cost of processing their LMO application
- Employers must complete a Processing Fee Payment Form, and can pay by:
  - Certified cheque (payable to the Receiver General for Canada)
  - Money order (postal or bank)
  - Visa
  - MasterCard
  - American Express



## Processing Fee – cont'd

A decorative header image showing a row of light blue silhouettes of various people, including adults, children, and individuals using mobility aids like wheelchairs and strollers.

- Excluded from the processing fee:
  - Seasonal Agricultural Workers Program (SAWP);
  - Agriculture Stream;
  - On-farm primary agricultural positions listed under NOC codes: 8251, 8252, 8253, 8254, 8256, 8431, 8432 and 8611.
- On-Farm primary agricultural positions can include: farm supervisors, general farm workers, nursery workers, fruit pickers, etc.

A decorative header image showing silhouettes of various people, including a person in a wheelchair, a person with a stroller, and a person with a cane, representing a diverse population.

# LMO Process – Labour Market Factors

- (a) whether the employment of the foreign national is likely to result in **direct job creation or job retention** for Canadian citizens or permanent residents;
- (b) whether the employment of the foreign national is likely to result in the **creation or transfer of skills and knowledge** for the benefit of Canadian citizens or permanent residents;
- (c) whether the employment of the foreign national is likely to **fill a labour shortage**;

A decorative header image showing silhouettes of various people, including a person in a wheelchair, a person with a cane, and a family with a stroller, set against a light blue background.

# LMO Process – Labour Market Factors

(d) whether the wages offered to the foreign national are consistent with the **prevailing wage rate** for the occupation and whether the working conditions meet generally accepted Canadian standards;

(e) whether the employer has made, or has agreed to make, **reasonable efforts to hire or train Canadian citizens or permanent residents**;

(f) whether the employment of the foreign national is likely to adversely affect the settlement of any **labour dispute** in progress or the employment of any person involved in the dispute.

A decorative header image showing silhouettes of various people, including a person in a wheelchair, a person with a cane, and a person with a stroller, representing a diverse workforce.

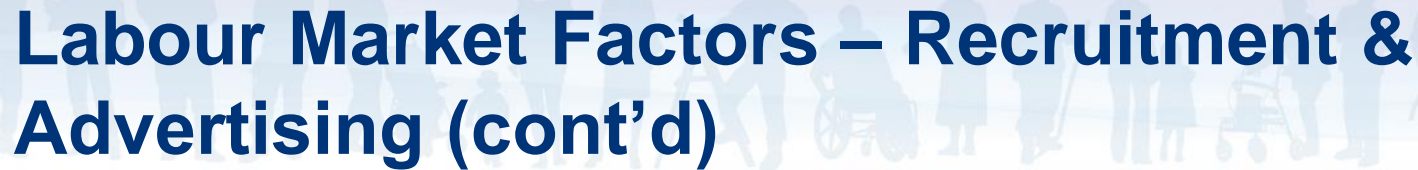
# Labour Market Factors - Wages

- Employers must offer and advertise wages that are consistent with wages earned by Canadians in similar occupations within the region, known as the “median” wage.
- Median wages are calculated based on data received from EI and Statistics Canada
- These wages are posted on:  
<http://www.workingincanada.gc.ca>

A decorative header image showing silhouettes of a diverse group of people, including individuals of various ages, ethnicities, and abilities (one person is in a wheelchair), walking in a line. The silhouettes are light blue and set against a white background.

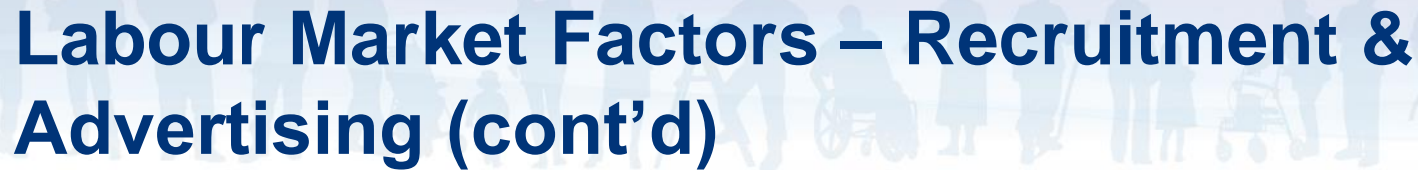
# Labour Market Factors – Recruitment & Advertising

- Employers are required to detail what efforts have been made to hire Canadians and/or Permanent Residents, before offering a job to a foreign worker.
- Each stream has specific minimum recruitment requirements, please visit website for details.
- Each advertisement must have specific content.



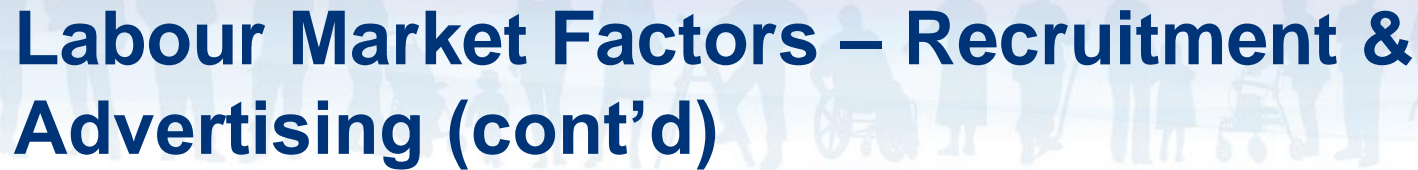
# Labour Market Factors – Recruitment & Advertising (cont'd)

- Minimum advertising requirements:
  - On the National Job Bank or its provincial/territorial counterpart in British Columbia, Saskatchewan, the Northwest Territories, Quebec or Newfoundland and Labrador
  - Must be posted for a minimum of 4 weeks
- At least two (2) other additional methods of recruitment consistent with the normal practice
  - Must be posted for a minimum of 4 weeks
- Employer must continue to advertise in at least one source until the decision is made on their LMO.

A decorative header image showing silhouettes of a diverse group of people, including individuals with disabilities (one in a wheelchair, one with a stroller) and various ages and ethnicities, set against a light blue background.

# Labour Market Factors – Recruitment & Advertising (cont'd)

- Exceptions to recruitment requirements include:
  - Specific Digital Media occupations
  - Live-in Caregivers
  - On-Farm Primary Agriculture
- [http://www.esdc.gc.ca/eng/jobs/foreign\\_workers/variations.shtml](http://www.esdc.gc.ca/eng/jobs/foreign_workers/variations.shtml)

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# Labour Market Factors – Recruitment & Advertising (cont'd)

- Higher-skilled occupations
  - Employers must choose one method that is national in scope
- Lower-skilled occupations
  - Employers must target under-represented groups, which can include youth, aboriginal people, new immigrants and people with disabilities.



# Employer Compliance Reviews (ECRs)

- Conducted by Integrity Services Branch on behalf of TFWP
- Triggered once an employer submits an LMO application
  - Random based
  - Non-Random based
- Pending LMO application that triggered ECR will be put on hold
- ECR reviews can include any confirmed LMO from the previous two years (approved prior to December 31, 2013)

# Employer Compliance Reviews (ECRs)

A decorative header image showing silhouettes of a diverse group of people, including men, women, and children, some using a wheelchair, against a light blue background.

- ECR reviews the Wages, Working Conditions and Occupation, that were approved on a previously confirmed LMO and associated Annex
- Investigators can request payroll records, timesheets, work permits, etc.
- If an employer is found to be non-compliant, can lead to:
  - Refusal of pending LMO application
  - Ban on applying for temporary foreign workers for a period of 2 years

# Recent Regulatory Amendments – Employer Conditions

- Effective December 31, 2013:
  - Employers must retain all documents relating to an LMO application and the terms and conditions of a positive LMO and annexes for **six years**.
  - Make reasonable efforts to provide a work place that is free of abuse.

# Recent Regulatory Amendments - Inspections

- Valid for any employer with a confirmed LMO issued after December 31, 2013.
- Conducted by Investigators with the Integrity Services Branch (ISB).
- Inspection can involve:
  - Review of documents to verify compliance
  - Conduct on-site visits
  - Interview foreign workers or Canadian employees, if they consent.



# Recent Regulatory Amendments – Inspections (cont'd)

- Employer can be selected for inspection at any time from the first day the TFW starts employment to **six years** after.
- Employer will always be advised if they have been selected for an inspection
- Non-compliance can lead to:
  - Issue negative decision on any pending LMOs
  - Ineligible to hire foreign workers for 2 years
  - May have previously issued LMOs revoked



# Regulatory Amendments – Ministerial Instructions

- Minister now has the authority to suspend or revoke an LMO, or refuse to process an LMO

## Suspension

- If new information about an employer comes to light that could have affected the decision on the LMO, can be suspended pending investigation.

## Revocation

- Results of investigation can lead to revocation or cancellation of LMO
- CIC will be advised, and work permit could be revoked as well



# Regulatory Amendments – Ministerial Instructions (cont'd)

## Refusal to process

- An LMO for a specific sector, region or occupational group
- If Minister becomes aware that a foreign worker employed in one of the above will have a significant negative effect on that labour market
- Any decision to refuse to process will be published on ESDC website

A horizontal row of light blue silhouettes representing a diverse group of people, including men, women, children, a person in a wheelchair, and a person with a cane, set against a light blue background.

# Additional Information

TFWP Website

[http://www.esdc.gc.ca/eng/jobs/foreign\\_workers/index.shtml](http://www.esdc.gc.ca/eng/jobs/foreign_workers/index.shtml)

Employer Contact Centre for TFWP

**1-800-367-5693**