



Backgrounder

Temporary Foreign Worker Program

The Temporary Foreign Worker Program (TFWP) is the Government of Canada's principal tool to help employers meet immediate skill and labour market needs when Canadian workers or permanent residents cannot be found.

The TFWP has a number of components including: the Live-in Caregiver Program; the Seasonal Agricultural Worker Program (SAWP); the Pilot Project for Occupations Requiring Lower Levels of Formal Training (National Occupational Classification C and D); and the hiring of foreign academics.

Human Resources and Skills Development Canada (HRSDC)/Service Canada and Citizenship and Immigration Canada (CIC) jointly administer the TFWP. HRSDC/Service Canada deals strictly with employers applying for temporary foreign workers, while CIC deals directly with the temporary foreign workers.

HRSDC/Service Canada works in partnership with provincial and other federal government departments to ensure employers and foreign workers receive complete and accurate information regarding their rights and responsibilities under the TFWP.

ROLES AND RESPONSIBILITIES

The TFWP is managed by Human Resources and Skills Development Canada (HRSDC) and Citizenship and Immigration Canada (CIC), operates under the authority of the *Immigration and Refugee Protection Act* (IRPA) and its Regulations. IRPA prescribes who may enter and work in Canada. As well, IRPA outlines the respective roles and responsibilities of HRSDC and CIC in regulating the entry of foreign nationals into Canada's workforce.

Human Resources and Skills Development Canada

Many of the employers who want to hire a foreign national must apply to HRSDC/Service Canada for what is called a Labour Market Opinion (LMO). HRSDC/Service Canada assesses the potential impact of the worker on Canada's labour market—in other words, how the offer of employment will affect Canadian jobs.

As part of this labour market opinion, HRSDC/Service Canada works case by case to ensure that employers offer prevailing wage rates and acceptable working

conditions, and that hiring the foreign worker will not have a negative impact on the Canadian labour market. It also ensures the employer has first made a sincere effort to fill vacant positions with Canadian workers. If these conditions are met, a positive labour market opinion is given, and the employer receives a letter to that effect.

Citizenship and Immigration Canada

Most of the foreign nationals who wish to work in Canada require a work permit from CIC. Following receipt of a positive labour market opinion from HRSDC, CIC determines whether it will issue a work permit, allowing the foreign worker into Canada.

Provincial and Territorial Governments

For most occupations, the working conditions of temporary foreign workers are the responsibility of the labour department in each province or territory. Temporary foreign workers are covered by the same labour legislation and have the same rights as Canadian workers. Ninety per cent of occupations are provincially regulated, and employment and labour standards for those occupations are the responsibility of the provincial and territorial governments. The other 10 per cent of occupations are federally regulated, and the employment and labour standards fall under the Canada Labour Code.

Employers

Employers request a labour market opinion or arranged employment opinion from HRSDC/Service Canada. Employers are responsible for informing their prospective temporary foreign workers of the labour market opinion assessment results. To receive a positive labour market opinion, employers must meet all the requirements of the labour market opinion, including the following.

Under the TFWP, they must:

- demonstrate sincere efforts to recruit Canadians, and explain why interested Canadians were not hired; and
- consult with the union if the position is covered under a collective agreement.

Under the NOC C and D Pilot Project, they must:

- sign an employer-employee contract outlining wages, duties and conditions related to the transportation, accommodation, health and occupational safety of the foreign worker;
- cover all recruitment costs related to the hiring of the foreign worker;
- help the worker find suitable and affordable accommodation;
- pay the foreign worker's airfare to and from Canada;
- provide medical coverage until the worker is eligible for provincial health



- insurance coverage;
- register the worker under the appropriate provincial workers' compensation and workplace safety insurance plans; and
 - when the employment offer is longer than 12 months, indicate that wages will be reviewed and adjusted, if necessary, at the end of a year to ensure prevailing wage rates are being respected.

For more information about the Government of Canada's Temporary Foreign Worker Program, visit HRSDC at www.hrsdc.gc.ca or CIC at www.cic.gc.ca.