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INTRODUCING THE LABOUR MARKET IMPACT ASSESSMENT

This is part one of the seven part **Guide to Major Changes to Canada's Temporary Foreign Worker Program**.

This week I'll cover the replacement of labour market opinions with labour market impact assessments (LMIAs).

Replacing the Labour Market Opinion with the Labour Market Impact Assessment

The first major change was to reorganize the Temporary Foreign Worker Program into two distinct streams: the Labour Market Impact Assessment (LMIA) stream and the International Mobility Program (IMP) stream.

The LMIA stream replaces the old Labour Market Opinion (LMO) process and the IMP stream incorporates all other temporary foreign worker (TFW) programs.

What's New in the LMIA Stream?

Under the new LMIA process, employers will notice the following changes:

1. Most application fees have nearly quadrupled from \$275/TFW to \$1,000 per TFW
2. A new low-wage/high-wage test has been introduced that will determine, in many respects, an employer's ability to hire TFWs
3. TFWs who fall within the highest demand, highest paid and shortest duration occupations will be eligible for expedited 10-day service



The overhaul of Canada's Temporary Foreign Worker Program may impact employers' ability to hire TFWs.

Can't wait until next week for the rest of the changes?

Download Reis' complete **Guide to Major Changes to Canada's Temporary Foreign Worker Program** now.

Higher Fees

As of June 20, 2014, the filing fee for LMIA applications has increased from \$275 to \$1,000 per TFW. This fee applies to each position for which a LMIA application is filed and is non-refundable. For instance, if an employer is looking to hire ten TFWs as physicians, the fee would be \$10,000.

The fee does not apply to specific higher-skilled positions related to on-farm primary agriculture.

The New Low-Wage/High-Wage Test

LMIA's will now be assessed in two categories: 1) low-wage workers and 2) high-wage workers. Low-wage workers will consist of TFWs paid under the provincial or territorial median wage while high-wage workers will consist of TFWs paid at or above the median wage. At the present time, the wage cut-off amounts are as follows:

Province/Territory	Median Wage
Newfoundland and Labrador	\$20.19/hour
Prince Edward Island	\$17.26/hour
Nova Scotia	\$18.00/hour
New Brunswick	\$17.79/hour
Quebec	\$20.00/hour
Ontario	\$21.00/hour
Manitoba	\$19.00/hour
Saskatchewan	\$21.63/hour
Alberta	\$24.23/hour
British Columbia	\$21.79/hour
Yukon	\$27.93/hour
Northwest Territories	\$32.53/hour
Nunavut	\$29.96/hour

The wage based test moves the focus to provincial and territorial wide wages as opposed to occupation specific wages. However, this change does not mean that prevailing wage test has been eliminated. The high-wage/low-wage test will be used for very specific purposes.

The low-wage/high-wage test will mainly be used to determine:

1. The total number of TFWs an employer can have at a particular work site
2. How long an LMIA will be issued for
3. Whether an employer must file a transition plan to demonstrate how it will move to a domestic work force

The Continuing Importance of the “Prevailing Wage”

First name *

Last name *

Email address *



The prevailing wage test requires employers to pay at or above the median wage for an occupation in a specific area. If the offered wage to a TFW falls below that of the median wage paid to Canadians or permanent residents in the same occupation and region, the LMIA will be refused.

The Continuing Importance of Canada's National Occupational Classification (NOC)

It is important for employers to continue to correctly describe the TFW's occupation using the NOC – the federal government's database on occupations in Canada. NOC codes will continue to be used to determine the prevailing wage in an occupation. They are also important for permanent residency applications for TFWs applying to become Canadian permanent residents.

The Low-Wage TFW Cap

Effective June 20, 2014, employers with 10 or more employees applying for a LMIA will be subject to a cap of 10% on the proportion of their workforce that consists of low-wage TFWs. For example, if an employer has 10 employees, only one of those employees can be a low-wage TFW.

The 10% cap will be applied per employer worksite and will be based on the total hours worked at that specific worksite (including overtime).

The transition to a 10% cap will be phased in for employers who currently have low-wage TFWs that comprise more than 10% of their workforce. Effective June 20, 2014, those employers will be limited to a 30% cap or their current level - whichever is lower. If companies have more than 30% of their workforce as TFWs, LMIA's will be refused until the number of TFWs fall below the 30% cap.

The 30% cap will be dropped to 20% beginning July 1, 2015, and to 10% on July 1, 2016. TFWs currently employed at worksites over the cap will be allowed to continue working at those sites until their existing work permits expire.

As the cap will be assessed on a per-location basis, it is not possible for an employer to have a 20% TFW complement at one location and a 0% TFW complement at another.

The LMIA One Year Time Cap for Low-Wage Occupations

LMIA's for all low-wage positions will only be granted for a maximum of one year. This is a decrease from the previous two-year maximum that was granted under the old low-skilled LMO process.

While LMIA's for low-wage positions will only be granted for one year, these are renewable if the employer meets the criteria for a LMIA at the time of renewal. However, by summer 2015, the government will limit the total time a low-wage TFW can be in Canada. While it is not clear what the total time cap will be, it will likely be

different than the current four-year time cap that is currently in place for most TFWs.

Stay tuned for next week where I discuss the transition plan for temporary foreign workers (TFWs). Learn about the details of the application form, what each plan must include and exemptions.

This article is prepared for general information purposes only and is intended to provide information for readers of Aikins Law Immigration Newsletter. The contents should not be viewed as legal advice or opinion.

Reis is a partner with Aikins Law and practices in the area of immigration law. His direct line is (204) 957.4640. If you would like to know more about Reis, follow him on [Twitter](#) or connect with him on [LinkedIn](#). Reach him at rrp@aikins.com.

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