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THE TRANSITION PLAN FOR HIGH-WAGE TFWs

This is **Part 2** of the seven part series, a **Guide to Major Changes to Canada's Temporary Foreign Worker Program**.

Last week I covered the replacement of labour market opinions with labour market impact assessments (LMIAs). Visit [Part 1 - Introducing the LMIA](#) if you missed it. This week I'll cover the requirement of transition plans for TFWs. Learn about the details of the application form, what each plan must include and exemptions.

This week: The Transition Plan for High-Wage TFWs

Canadian employers must submit transition plans with their LMIA applications outlining the steps they are taking to reduce their reliance on TFWs for higher wage positions. The transition plan is a requirement over and above the recruiting requirements that the employer must undertake to find Canadians/permanent residents for the job.

Employers of high-wage TFWs must begin work on their transition plan the moment a positive LMIA is issued. Work on the transition plan must continue throughout the time TFW is employed.

Employers with multiple TFWs must ensure that each transition plan is carefully reviewed. It is possible to have multiple transition plans in place at various times in the employment cycle of TFWs. Employers who wish to reapply to hire a high-wage TFW must report on the success of their transition plans every time they reapply. Therefore it is important that records be kept. Employers should keep data on their progress current, as they may be selected for inspection at any time.



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?

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In preparing a transition plan, employers must include a list of activities that could help them transition to a Canadian work force. While it is possible for employers to undertake activities not on the list provided in the application form, it is advisable to review the list. The current list of recruitment and training “activities” found on the form includes:

- › Increase wages offered
- › Employee referral incentive program
- › Offer part-time or flexible hours as an option
- › Offer health insurance or other benefit
- › Job fairs
- › Financial support for relocations of Canadians or permanent residents
- › Hire headhunting firm to identify prospective candidates
- › Ongoing advertisement/modified advertising plan (e.g. different sources, target different audiences)
- › Partner with unions / industry associations to identify potential candidates
- › Apprenticeship / internship / Co-op
- › Government programs
- › Paid-leave for education
- › On-the-job training

Transitions plans must include the following:

1. Three distinct activities
2. One additional “activity” to target underrepresented groups
3. One “activity” which facilitates the permanent residency of a temporary foreign worker

Once the activities are decided upon, employers must provide transition plans for each activity.

In the current application form, each transition plan must set out the following:

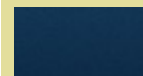
1. A description of the planned activity (i.e. the scale of the investment to be made in training, scholarships/bursaries, partnerships)
2. Results of the planned activities (once the proposed activity has taken place, documentation must be provided to show its completion)
3. Proposed dates for the activities (a general timeline)
4. The actual results of the activity (to be completed once the activity has taken place)
5. For both the proposed activities and the actual results:
 - a) The number of Canadian/permanent resident applicants
 - b) The number of temporary foreign worker applicants
 - c) The number of Canadians/permanent residents interviewed
 - d) The number of temporary foreign workers interviewed
 - e) The number of Canadians/permanent residents offered employment
 - f) The number of temporary foreign workers offered employment

Major Changes to Canada's Temporary Foreign Worker Program now.

First name *

Last name *

Email address *



- g) The number of Canadians/permanent residents hired
- 6. The rationale for not hiring Canadian/permanent resident candidates

If an employer wishes to change a transition plan after a LMIA opinion is issued, Service Canada must agree to the change. If a revised transition plan is not agreed to by Service Canada, the employer could be liable for not following the transition plan on file.

In certain cases, employers can apply for an exemption from submitting a transition plan. Examples provided by Employment and Skills Development Canada include:

1. TFWs required for unique skills (e.g. nuclear physicist or senior executives such as Chief Executive Officer)
2. TFWs here for a limited duration of:
 - a) Between 1 and 120 days (e.g. emergency or warranty work repair technicians / mechanics)
 - b) More than 120 days to a maximum of 2 years (e.g. project-based business consultant, specialized construction engineer)

The Transition Plan requirement does not apply to employers applying for positions related to on-farm primary agriculture such as: farm managers/supervisors and specialized livestock workers, general farm workers, nursery and greenhouse workers and harvesting labourers OR under Quebec's facilitated process.

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.

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