

Canada Updates Prevailing Wage Data and Adopts New NOC System



Employers in Canada that utilize the Temporary Foreign Worker Program to obtain Labour Market Impact Assessments (LMIAs) or GTS LMIAs, or who use the International Mobility Program to obtain LMIA-exempt employer-specific work permits, need to be aware that in November 2022 the Canadian government updated wage data and adopted a new National Occupational Classification (NOC) job classification system.

These changes will affect all such applications going forward. A failure to apply the new prevailing wage data or NOC codes will lead to application refusals.

Prevailing wage data updated

Wage data was updated in November 2022. Prevailing wages for most occupations and regions increased compared to the prior data.

The new wage data is now reflected on the ESDC site. The median wage column shows the prevailing wage for LMIA application purposes. The wage data can be searched by occupation or location of work.

Per ESDC policy, employers seeking an LMIA must offer the temporary foreign worker (TFW) at least (or more than) the prevailing wage for the position/NOC and the location of work. For LMIA applications that require an employer to search for Canadian or PR candidates, the job listings must include salary information and the advertised wage or wage range must be at or above the prevailing wage for the NOC and the location of work.

The prevailing wage data must also usually be reviewed by employers seeking intra-company transferee (ICT) work permits under the specialized knowledge category to meet IRCC's mandatory wage floor policy.

Employer takeaways:

Employers should ensure that they are not relying on prior application materials or prior prevailing wage data assessments when filing new LMIA or ICT specialized knowledge applications. A failure to meet the prevailing wage

requirement will lead to refusals on such applications.

Employers that employ TFWs under LMIAs that were issued at or just above the prior prevailing wage should review the new wage data and determine if salary levels need to be raised to meet the new prevailing wage. Per ESDC policy: *“Employers must review and adjust (if necessary) the TFW’s wage after 12 months of employment to ensure the worker continues to receive the prevailing wage rate of the occupation and work location where the TFW is employed.”*

New NOC 2021 job codes adopted

Both ESDC (for LMIAs) and IRCC (for work permits) have migrated to the NOC 2021 system as of Nov. 16, 2022. The 2021 National Occupational Classification (NOC) system will now be used to classify jobs. Provincial Nominee programs have also adopted NOC 2021.

NOC 2021 brings in a new 5 digit job code system, replacing the prior 4 digit system.

It also brings in a new, 6 level skill category system, call TEERs. Jobs that are TEER level 0 (managers), 1, 2 and 3 will be eligible occupations under Canada’s Express Entry PR system. Changes to the skill level categories have added 16 new occupations that are now eligible to apply for PR status via Express Entry (these occupations are listed at the first link below).

Going forward, when citing the NOC code on LMIA applications, in the Employer Portal, on Work Permit applications, or on permanent resident applications, the NOC 2021 system needs to be used.

Employer takeaways:

The NOC 2021 system needs to be used as of November 2022. Avoid relying on older application materials that cite outdated NOC codes.

Conclusion

Employers and foreign nationals utilizing Canada’s immigration and work permit regime need to be aware of, and utilize, the NOC 2021 job classification system.

Employers also need to be aware that new prevailing wage data is in place, and that the new data must be used when assessing prevailing wage or mandatory wage floor requirements.

Please contact a member of the Gowling WLG Immigration team if you require further information on these changes or if you require any advice on any immigration or work permit matters.

Source: Gowling WLG

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