

# Employers Of Foreign Workers In Saskatchewan Subject To New Code Of Conduct



**On July 1, 2024, Saskatchewan’s new immigration legislation, the *Immigration Services Act* (“ISA”) came into force, officially replacing the *Foreign Worker Recruitment and Immigration Services Act* (“FWRISA”). The ISA is aimed at strengthening Saskatchewan’s immigration system and providing additional supports and protection for newcomers, especially those in the workforce.**

Following the implementation of the ISA, the corresponding *Immigration Services Regulations* (the “Regulations”) have since come into force. The Regulations set out guidelines for the enforcement of various items under the ISA, including provisions on the regulation of foreign worker recruiters and immigration consultants, additional information on penalties for non-compliance, and requirements – as well as exemptions – for registered employers. Notwithstanding these updates, the most important provisions for employers are found at Part 2 of the Regulations’ appendix, “Code of Conduct for Registered Employers” (the “Code”).

The Code is referenced multiple times throughout the ISA, without accompanying details other than that it would be adopted in the Regulations. Per the ISA, enforcement officers have the same powers to enforce compliance with the Code as they do with any of the ISA provisions. Moreover, there are broad powers to punish employers who fail to comply with the Code, such as revocation of or refusal to issue a recruiting licence, revocation of a Certificate of Registration or refusal to register an employer and monetary penalties.

The Code’s stated purpose is to establish professional standards for registered employers. Like under the FWRISA, employers who wish to recruit foreign workers are required to first obtain a Certificate of Registration from the provincial government. Once the certificate is issued, the employer is considered a “registered employer” and is permitted to recruit foreign workers. Now, under the Regulations, registered employers have additional responsibilities to comply with the Code.

## **Key pieces of the Code**

The key pieces of the Code are found at sections 4 and 5. Section 4 sets out

prohibitions for registered employers, while section 5 sets out the registered employers' professional responsibilities. Under Section 4, registered employers are prohibited from:

- Engaging in any unlawful activity;
- Providing advice or creating false expectations that would lead to a foreign national divesting assets, quitting their job, or relocating without a certain right to work in Canada; and
- Engaging knowingly in an illegitimate scheme with any other party for monetary gain or to coerce the labour of a foreign national.

Further, under section 5, a registered employer must:

- Maintain clear and ethical employment practices;
- Keep strictly confidential all information related to a foreign national's job application;
- Provide truthful, accurate, and complete information in all communication with the foreign national and any federal or provincial governmental agency;
- Ensure the authenticity of documents and information provided to the immigration minister;
- Ensure candidates who receive job offers have the skills and abilities to perform the job offered;
- Ensure that the conditions of the employment contract with the foreign national are met;
- If the foreign national does not have a work permit at the time for hiring, ensure they apply immediately for a work permit;
- Ensure the foreign national hired begins working as soon as they are lawfully able; and
- If the employer uses an immigration consultant or foreign worker recruiter, ensure they are properly licensed in accordance with the ISA and regulations.

## **Takeaways for employers**

It will be critically important for employers to understand their obligations under the new Regulations, and particularly, the Code. Registered employers will need to be mindful of their obligations to foreign workers and how they may differ from their obligations to Canadian workers to ensure compliance with the ISA and the Regulations and avoid penalties. Employers should consider how they interact and communicate with foreign worker candidates and employees to ensure they are meeting all provisions of the Regulations and Code.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

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