Federal Government Considers Restrictions On Low-Wage Temporary Foreign Workers



Employment, Workforce Development and Official Languages Minister states the federal government is considering restricting or refusing temporary foreign worker applications under the low-wage stream.

The Temporary Foreign Worker Program (TFWP) allows Canadian employers to hire foreign nationals when necessary to fill labour shortages. On August 6, 2024, Employment, Workforce Development and Official Languages Minister, Randy Boissonnault, provided an update on potential changes to the TFWP with the intention of combating known and perceived fraud in the system.

Of particular note was the announcement that the federal government is considering a refusal of temporary foreign worker applications for low-wage jobs. The impact will be targeted at workers who work low-wage jobs. Low-wage jobs are defined as those which pay below the median hourly wage for the province in which the job is based.

Minister Boissonnault also specifically noted that the TFWP cannot be used as a way to avoid hiring Canadian workers, and that the federal government plans to crack down on fraud and misuse within the TFWP.

The government's press release on the issue outlined actions currently being implemented to reduce the use of the TFW Program, which include:

- Enforcing consistent application of the 20 per cent cap policy for temporary foreign workers when seeking low-wage Labour Market Impact Assessments (LMIAs), including more stringent guidelines for the "dual intent sub-stream"
- Applying a stricter and more rigorous oversight in high-risk areas when processing LMIAs and when conducting inspections
- Considering LMIA fee increases to pay for additional integrity and processing activities
- Looking to implement future regulatory changes regarding employer eligibility (factors such as a minimum number of years of business operations or history of lay-offs by the employer)

Currently to hire a TFW, employers must submit a LMIA to prove no qualified Canadian workers are available to fill the job vacancy. However, Minister Boissonnault has alluded to potential changes to this process.

Penalties for non-compliance

The penalties employers may face for non-compliance with the TFW Program range from a warning letter to Administrative Monetary Penalties of $500 to $100,000 per violation, with a maximum limit of $1,000,000 each year. Employers may also face time-limited or even permanent bans from use of the program in more serious issues of non-compliance. Finally, a list of non-compliant employers is compiled and posted on a public website.

Implications for employers

While no changes have been implemented yet, this announcement provides a warning to employers of what may be to come with the TFWP. Employers should be alive to the potential for changes, and how it may impact their staffing numbers. This is especially true for industries that rely heavily on low-wage foreign workers, such as the food service, hospitality and retail industries.

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.

Authors: Scott Bell, Anna Sigurdson

MLT Aikins LLP