

Temporary Foreign Worker Program Changes Announced, Including Mandatory Annual Wage Rate Review By All Employers



Effective January 1, 2024 employers will be required to review their Labour Market Impact Assessment (“LMIA”) based foreign worker employees’ wages ***annually*** in order to ensure that the wages paid reflect any possible increases to prevailing wage rates. Prevailing wage rates are set by Employment and Social Development Canada (“ESDC”), and are typically updated in November each year. They can be reviewed on ESDC’s [Job Bank website wage reports section](#), and are categorized by the applicable National Occupation Classification (“NOC”) code and the region of employment. **Employers will be required to complete their wage rate review by January 1 of the year following the Job Bank wage update.**

Therefore, every year in November/December, employers will be required to review the prevailing wage rate for each NOC code they have obtained an LMIA approval for, and ensure that the wage rate they are paying the employees named on the applicable LMIA approval is at or above the updated/current prevailing wage rate. This means that after January 1, 2024, if an employer applies for and obtains an LMIA approval for a specific wage rate, they may be required to increase an employee’s wage rate the following November/December of that year, and/or the following years, if the prevailing wage rate increases to a value that is above what the employer was approved to pay on the LMIA approval. The method and process for the annual wage rate review are not clear at this time, but additional guidance from ESDC is expected to be posted by early January 2024.

Other changes announced by ESDC regarding the Temporary Foreign Worker Program (“TFWP”) include:

- the LMIA approval validity period will be reduced to 12-months from the previous 18-month validity period;
- employers will continue to be allowed to hire up to 30% of their workforce through the TFWP in sectors with demonstrated labor shortages in low-wage positions (including food, wood product and furniture manufacturing, accommodation and food services, construction, hospitals and nursing and residential care facilities) until August 30, 2024; and
- employers can hire workers for low-wage positions (those under the provincial or territorial minimum wage) for up to two years until August 30, 2024.

Finally, it is worth noting for all ***Agricultural Stream*** LMIA employers that **the current temporary public policy waiving recruitment requirements for Agricultural Stream LMIAs is scheduled to end on June 30, 2024**. Agricultural Stream LMIA applications submitted after that date will be required to meet the recruitment requirements again.

We expect that ESDC will continue to review the relevant policies as Canada's labor market and economic conditions evolve in order to ensure there are no negative effects on Canadian workers or working conditions for Canadians and foreign workers. As changes are announced, we will continue to keep all employers informed.

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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