

LABOUR UPDATE (July 9, 2009)

Labour Market Opinion (LMO) Procedures and Job Advertising Requirements

Over the past several months HRSDC / Service Canada implemented several changes to the LMO procedures which can have a significant impact on your foreign recruitment plans.

1. Position Advertising Requirements

❖ Effective April 2009.

- New advertising changes must be met before a new LMO application can be submitted or the application will be refused.
- Position advertising must be carried out within the 3 months prior to making a “new” LMO application.
- The advertising period must be a minimum of two weeks (14 days), preferably 3-4 weeks to allow for employer follow-up on application submissions. LMO applications should NOT be sent in prior to, during, or immediately after the end of the required 14-day advertising period. Service Canada requires a waiting period for responses to ads. Failure to do so will result in LMO refusals.
- Posting of the Canada Job Bank (www.canadajobbank.ca) is one mandatory site.
- Job ads must include the employer’s name or business name, the address/location of the job (not of the company office, if different), the job title, a description of the job plus the wage/salary plus any benefits such as housing or health benefits.
- Position salary or wage ranges may be quoted, but the wage quoted must equal to or greater than minimum level posted on Service Canada’s website. (*see more detail in “Wage Information” section below*).
- Proof of advertising must provide evidence of the dates on which it was carried out, copies of newspaper invoices or ads, and a copy of Canada Job Bank posting showing the dates when it was posted. A copy of an ad that is “pending” is NOT acceptable. If using an association website ensure the website shows the dates ads were placed. If advertising is carried out in daily newspapers they must appear each day for a full 14-day period.
- If evidence of advertising is not considered adequate, or any of these requirements are not met, the application will be refused and the entire process, including advertising, may have to be started again. Note if a wage/salary is below the required minimum, Service Canada will no longer phone the employer to recommend changes. Service Canada has stopped this service and will simply issue a refusal.

2. LMO Processing Times

Current LMO processing time at Service Canada, Edmonton is about 10 weeks (July 9, 2009).

3. Wage Information

In the absence of any up-to-date wage survey data for the primary agriculture industry, Service Canada has decided to use data from the Government’s “Labour Market Information” unit, which relates to three categories – General Farm Workers (NOC Code 8431), Specialized Livestock Workers (NOC Code 8253) and Agricultural Managers (NOC Code 8251) – as the basis for the minimum wage rates that they require.

- The published wage rates are applicable to all livestock sectors, and in some cases are significantly higher than previous posted rates. This may cause employers some difficulties / concerns as they may be required to advertise for and pay higher rates.

- Wage scales are shown by Alberta region, which means that care must be taken when applying for an LMO to enter the correct rate for your location in Alberta. The new wage scales can be viewed at: www.labourmarketinformation.ca . Select your location from the drop-down menus.
- Note that the wages are shown on the website as “*average wage, low wage and high wage*”. The minimum amount that must be paid to a TFW is the *average wage*. If the wage offered in the ads and the LMO is lower, the LMO application will be refused.

4. **LMO's Rules**

❖ Effective May 19, 2009

- LMO's are now valid for 6 months ONLY (previously 12 months)
- Within this 6 month period the following must take place:
 - Employer notifies the temporary foreign worker (TFW) that the LMO was approved.
 - Employer sends a confirmation letter to the TFW.
 - TFW applies for a work permit with Citizenship & Immigration Canada (CIC). An LMO not submitted to CIC to support a work permit will be deemed expired.
- All LMO's issued prior to May 19, 2009 will expire on November 19, 2009.
- Employers should apply for new LMO's at least 4 months prior to current LMO's expiring to ensure adequate processing time of new LMO's and subsequent work permits.

❖ Effective April 27, 2009

- The foreign worker application to extend a LMO is eliminated. All references to LMO extensions no longer exist.
- In the case of LMO pre-approvals that are not used, previously it was possible to request to extend the valid time period. This is no longer permitted.

❖ Effective October, 2008

- It is NOT possible to change the worker details on an LMO. If a candidate decides not to take the position, that LMO cannot be re-used and becomes invalid. Previously a new candidate name could be substituted. A new LMO application must now be made and requires new advertising take place prior to the new LMO application.

5. **Work Permits**

Irrespective of skill level, temporary work visas will now be issued for a period of one year ONLY, rather than two.

6. **Future Changes**

As hiring locally is prioritized more and more, it is likely that frequent changes will continue to be made to the TFW program. Employers should continually monitor this situation before making applications.

HRSDC website: http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/index.shtml