



Suggested Actions to Help Observe-Conform with TFW Rules and Help Make Service Canada Audits as Painless as Possible

October 15, 2022

Disclaimer: the following actions are recommended to assist growers in organizing paperwork that will help to prove compliance with Service Canada's Temporary Foreign Worker program rules. The actions do not ensure program conformance, and Service Canada's rules and compliance procedures change from time-to-time, so it is important and the responsibility of each TFW program participant to be current and ensure compliance and record-keeping will provide evidence of TFW rule compliance.

New Requirement	Employer Action	Priority
-	<p>As general preparation for ensuring compliance with all regulations, have a "Day 1" checklist that you will print and review with each employee before the first day of work.</p> <p>You may wish to add non-regulatory items to the "Day 1 checklist", such as:</p> <ul style="list-style-type: none">- 'House rules' reviewed with employee.- Photos of the housing condition at the start of the season are signed by the worker - include the statement on the checklist "the worker acknowledges the condition of the housing at the end of the term must be in the same condition of repair and cleanliness as shown in the housing photos at the start of the term". <p>Ensure the worker initials each item on the checklist as you review the information with them.</p> <p>Date and sign the checklist, and have the worker sign the checklist under the heading "Acknowledged as received by the employee on the date indicated."</p> <p>Provide the employee with a copy of the checklist.</p> <p>Place the original checklist in the employee file.</p>	



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New Requirement	Employer Action	Priority
<p>Employers must provide to the foreign national they employ, on or before the first day of work, a copy of the most recent information about their rights in Canada, in the worker's chosen official language of Canada.</p> <p>Employers must make this information available to the temporary foreign workers, in both official languages of Canada, throughout their period of employment. This information will be supplied by the Government of Canada.</p>	<p>Print up copies of the most recent information brochure.</p> <p>Add "employee provided with brochure" to the "Day 1 checklist".</p>	
<p>Employers must commit in their Labour Market Impact Assessment (LMIA) submission to conclude an employment agreement with the temporary foreign worker and provide them with a signed copy in the worker's chosen official language of Canada on or before the first day of work.</p> <p>The employment agreement needs to outline, at a minimum, the same wages, occupation and working conditions as those set out in the offer of employment.</p>	<p>The 2023 employment agreement will probably include this statement as one of the commitments of the employer - no further action required.</p> <p>Locate the employment agreement.</p> <p>Add to the "Day 1 checklist":</p> <ol style="list-style-type: none"> 1. Employer and Employee to sign the Employment Agreement. 2. Copy the double-signed Employment Agreement and give it to the employee. 3. Place the original double-signed copy into the employee file. <p>The 2023 employment agreement will probably include this statement as one of the commitments of the employer.</p>	



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Employers are currently obligated to comply with the existing regulatory condition to make reasonable efforts to provide temporary foreign workers with a workplace free of abuse. The new definition of “abuse” now includes a direct reference to “reprisal,” such as actual or threats of demotion, disciplinary measures or dismissal.	<p>Locate your policy on workplace bullying and harassment. Ensure it includes a definition of abuse that include ‘reprisal’.</p> <ol style="list-style-type: none"> 1. Add to the “Day 1 checklist”: “Employee acknowledgement of receipt of the workplace bullying and harassment policy”. 2. Copy the signed policy with date of receipt and give it to the employee. 3. Place the original copy of the policy into the employee file. 	
<p>Prior to the period of employment</p> <ul style="list-style-type: none"> • Employers must confirm and commit in the LMIA submission that they have not and will not directly or indirectly charged or recovered fees from a foreign national in relation to the LMIA and their recruitment. • Employers must ensure that any recruiter acting on the employer’s behalf has not done so and will not do so. 	<p>The 2023 LMIA will probably contain new wording that commits the employer to not charge fees to the employee “in relation to the LMIA and their recruitment” - no further action needed.</p> <p>If participating on SAWP, there is no need to ensure the foreign government recruiter is not taking fees - the foreign government is delegated that responsibility and no further action is required.</p> <p>If participating in TFW Ag Stream:</p> <ul style="list-style-type: none"> - Add to the “Day 1 checklist”: “The worker agrees by initialing this item that the recruiter for this job did not collect any fees from me, directly or indirectly”. 	
<ul style="list-style-type: none"> • Employers must not charge or recover fees from temporary foreign workers during their period of employment for the recruitment of the temporary foreign worker or the LMIA processing fee. 	Do not charge a recruitment fee.	



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<ul style="list-style-type: none"> Employers must ensure that any person who recruited the temporary foreign worker on their behalf does not directly or indirectly charge or recover these fees from the temporary foreign worker. 	<ul style="list-style-type: none"> Add an item to the "Day 1 checklist: "Worker acknowledges that a recruitment fee has not been charged by the employer or the foreign recruiter" 	
a. Access to health care services <ul style="list-style-type: none"> Employers must make reasonable efforts to provide access to health care services when the temporary foreign worker is injured or becomes ill at the workplace. 	Keep a record of employee contacts with the employer - note time, date and type of health issue, and resolution (e.g. not severe, provided light duties. Non-critical injury, took employee to clinic at coffee break. Severe injury, transported to emergency in ambulance). In cases of workplace injuries, WorksafeBC has reporting requirements that will include all necessary information.	
b. Private health insurance for emergency medical care <ul style="list-style-type: none"> Employers must obtain and pay for private health insurance that covers emergency medical care for the temporary foreign worker for any period during the period of employment for which the temporary foreign worker is not covered by the applicable provincial/territorial health insurance system. This condition will be imposed on all employers, except in the case of employers who employ a foreign worker under an agreement reached between Canada and one or more countries concerning seasonal agricultural workers where the agreement includes health insurance 	Ensure enrollment in Cowan Insurance.	
Requiring documents from third party <ul style="list-style-type: none"> Employment and Social Development Canada (ESDC) will 		



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now have the authority to require, without the consent of the employer and/or worker, that any individual or entity provide any document in their possession that relates to employer compliance with regulatory conditions. Third parties here include entities such as banks and payroll companies.		
Suspend processing of a request for an LMIA so long as there is reason to suspect employer non-compliance with certain regulatory conditions and serious risk to health or safety of foreign national • ESDC will now have the authority to suspend the processing of an LMIA request for an employer who ESDC has a reason to suspect is non-compliant with one or more of the following conditions: the employer must be actively engaged in the business in respect of which the offer of employment was made, unless the offer was made for employment as a live-in caregiver; the employer must provide the foreign national with working conditions that are substantially the same as—but not less favourable than—those set out in that offer; the employer must make reasonable efforts to provide a workplace that is free of abuse; and the employer complies with COVID-19 related conditions. • If there is a reason to suspect that the employer is not complying or has not complied with one or more of the above-mentioned conditions		



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and that the employer's failure to comply with any of these conditions would put at serious risk the health or safety of the foreign national, the processing of a request for an LMIA will be suspended until there is no longer a serious risk to the health or safety of the foreign national		



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