

**Regulatory changes to the
Temporary Foreign Worker Program
take effect April 1st, 2011**

Highlights of the changes include:

- *A more rigorous assessment of the genuineness of the job offer;*
- *A two-year prohibition from hiring temporary foreign workers for employers who have failed to meet their commitments to workers with respect to wages, working conditions and occupation; and*
- *A limit on the length of time a temporary foreign worker may work in Canada before returning home.*

Information is extracted from :

<http://www.cic.gc.ca/english/work/changes.asp>

For more information, please visit:

www.cic.gc.ca

Rigorous assessment of the genuineness of the job offer

Employers who have:

- Failed to meet commitments as promised in their job offers
- Failed to provide reasonable justification why they did not meet their commitments
- Failed to rectify the situation by providing appropriate compensation to the former employee

These employers may:

- Face refusal of work permit applications for any foreign workers that they offered employment
- Become ineligible to hire Temporary Foreign Workers for 2 years, and
- Have their names displayed on CIC's public website

[CIC's employer ineligibility website:](http://www.cic.gc.ca/english/work/list.asp)

<http://www.cic.gc.ca/english/work/list.asp>

Work with Eligible Employers Only!

- Workers are advised to protect themselves by consulting [CIC's employer ineligibility website](#) prior to entering into or extending an employment agreement to determine if the employer they are planning to work for has been deemed ineligible to use the TFWP.

[CIC's employer ineligibility website:](#)

<http://www.cic.gc.ca/english/work/list.asp>

- **Temporary foreign workers cannot enter into an agreement, or an extension of an existing agreement with an employer who has been deemed ineligible to use the TFWP. Doing so will result in the worker's loss of temporary resident status in Canada.**
- CDWCR's suggestion: Print the list of the ineligible employers prior to accepting an offer of employment to show authorities proof that you checked the name of the employer against the ineligible employers' list and that his/her name is not in the list.

Where to report on employer's non-compliance of Job Contracts

- Temporary Foreign Workers (TFWs) including LCP participants have access to the same recourse mechanisms as Canadian workers when it comes to labour and employment standards.
- Provinces and territories have primary responsibility for enforcement of labour standards and have offices that can assist workers.
- TFWs who have concerns regarding fair pay, hours of work, rest periods and general working conditions should contact the appropriate authority in the province or territory they work in.
- **In British Columbia, contact:**
Ministry of Labour and Citizens' Services Employment Standards Branch Toll free: 1 800 663-3316 Outside British Columbia: (250) 612-4100 Website: www.labour.gov.bc.ca/esb
- In other provinces, contact:
<http://www.cic.gc.ca/english/work/labour-standards.asp>

Allowable duration of work in Canada

- The **cumulative duration** regulation establishes a maximum allowable duration of four years that a temporary foreign worker can work in Canada,
- After which TFW would not be eligible to work in Canada for a period of 4 years.
- The cumulative duration regulation takes effect April 1, 2011 for all TFWs; therefore, the earliest date that a TFW could reach the four-year cumulative duration is April 1, 2015.

Calculation of Cumulative Duration

- The accumulated time worked in Canada will be calculated by CIC based on the duration period of valid work permits issued to the TFW.
- If the worker has had gaps in employment during the validity period of a work permit, he or she must provide proof to an officer in order for those breaks to be considered in the calculation of cumulative duration.
- ***Examples of legitimate breaks would include:***
 - *extended unpaid leave,*
 - *maternity or parental leave and*
 - *periods of unemployment.*

Keep thorough Records of Employment

- TFWs are advised to keep thorough records, especially documents to support periods not worked during the validity period of a work permit
- Examples of valid proofs of breaks in employment:
 - passport entry and exit stamps,
 - ticket and boarding passes, or
 - proof of receipt of maternity or parental benefits.

Exception to Four-Year Cumulative Duration

LCP participants who have applied for permanent residence and who have received an approval in principle letter are not subjected to 4-year cumulative duration regulation.

Thinking Points

- Who is responsible for maintaining the list of ineligible employers?
- Is two years of not hiring a foreign temporary worker enough penalty against ineligible employers?
- While under Open Visa, should worker be concerned if their employer is included in the list of ineligible employers?
- If the employer is not in the ineligible employers' list but later determined by Human Resources and Skills Development Canada (HRSDC) and Citizenship and Immigration Canada (CIC) to be ineligible during the LMO application processing, what will happen to the temporary foreign worker?

What Now?

- Discussions
- Next Steps