

~~M~~INISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**INFORMATION NOTE**

Cliff #:  
Date: March 4, 2012

**PREPARED FOR:** Honourable Shirley Bond, Minister of Jobs Tourism and Skills Training and Minister Responsible for Labour

**ISSUE:** East Kootenay Labour Council is asking for changes to the Federal Temporary Foreign Worker program as a result of a claim made by five Filipino temporary workers allegedly experiencing abuse at the Fernie Tim Horton's

**BACKGROUND:**

- On March 1, 2014, CBC reported that the East Kootenay Labour Council is asking for changes to the federal Temporary Foreign Worker (TFW) Program. This request is the result of a claim made by five Filipino TFWs that, after enduring abuse at the Fernie Tim Horton's, they want open work permits to find other jobs (see article attached as Appendix 1).

s13, s16

- The TFW Program is a federal program jointly administered by Citizenship and Immigration Canada (CIC) and Employment and Social Development Canada (ESDC). ESDC is responsible for issuing Labour Market Opinions (LMO), while CIC is responsible for issuing work permits.
- The purpose of the LMO is to verify there is a shortage of Canadians/permanent residents willing and able to do the job, and that therefore, hiring a TFW will not have a negative impact on the Canadian labour market.
- TFWs are able to work in BC with an open or employer tied work permit. Examples of TFWs streams where open work permits apply include those under NAFTA and International Experience Canada (youth on a working holiday).

s13, s16

s13, s16

- TFW work permits tied to a specific employer require an employer to have a positive/neutral Labour Market Opinion (LMO) from ESDC. The TFWs' work permit application must include a copy of the positive LMO and, for low-skilled TFWs, a copy of the employment contract.
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s13, s16

- Lower skilled occupations usually require, at most a high school diploma or a maximum of two years of job-specific training. High skilled occupations generally require education or formal training such as university, college or vocational education or apprenticeship training.
- When employers hire TFWs, there are different requirements for low-skilled and high-skilled workers. For example, employers wishing to hire TFWs under the low-skilled stream are allowed to hire for a maximum of 24 months, must pay round trip airfare, must ensure there is reasonable and proper accommodation available, and must enter into an employment contract.

- The employment contract offers additional protection measures for low-skilled TFWs and must include: 1) contract duration, 2) detailed job description, 3) work schedule, 4) wages and deductions, 5) a wage review after 12 months of continuous employment to ensure prevailing wage rate, 6) transportation costs, 7) accommodation, 8) hospital and medical care insurance, 9) notice of resignation/termination, and 11) a clause related to provincial labour and employment laws and applicable collective agreements. A sample employment contract is included as Appendix 2.
- Even if a low-skilled TFW's employment is terminated by the employer, the TFW's air fare must be covered. If a TFW quits, ESCD would need to understand the circumstances surrounding the event to determine the employer's obligation in regards to return air fare. The employer, however, generally is still responsible for all conditions related to the TFW's job offer. An employer may be released of the air fare requirement when the TFW is hired by a new employer, who then takes over the responsibility of the return air fare.
- In the case of high-skilled TFWs, while an employment contract is recommended it is not mandatory and airfare is not a requirement.
- From the CBC news report, it would seem the referenced TFWs are on a work permit tied to their employer in a low-skilled occupation.

## **DISCUSSION:**

### ***Key Considerations:***

- While open work permits provide TFWs employment options, they can bring uncertainty to employers as the movement of TFWs cannot be directed to regions most in need of workers nor can they provide assurances that TFWs won't displace Canadians. This could happen if the labour market fluctuates and a greater number of British Columbians become available within an occupation, or if a qualified British Columbian becomes available while the TFWs open work permit is valid.
- When a TFW (high-skilled or low-skilled) has a work permit tied to an employer, it is difficult and generally quite time-consuming to change employers. The process requires the TFW to:
  - find an employer with an existing positive LMO that includes a position that the TFW qualifies for, OR
  - find an employer who is able to obtain a new LMO for a position that the TFW qualifies, AND
  - obtain a new work permit.
- If a TFW loses their job, they may be eligible for employment insurance (EI); however, they must have been laid off through no fault of their own. They must also have worked a certain number of hours before they are able to receive EI benefits depending on the unemployment rate in the region.
- BC established a TFW Cross-Ministry Working Group with the intent to conduct an integrated review of issues

s13, s16, s17

s13, s16, s17

- The federal government has been introducing reforms to the TFW Program since April 2013 with an aim to ensuring that Canadians/permanent residents are first in line for jobs. In the February 11, 2014 budget, the federal government announced it plans to strengthen the LMO process including realigning the application streams to better identify vulnerable TFWs and improve processing times for certain applications.

s13, s16

#### SUMMARY:

- BC is working on and researching s13, s16 The federal government also continues to reform the TFW Program including introducing ways to better protect the Canadian labour market and TFWs.
- TFWs are able to move employers, albeit it is a difficult process. However, the LMO process, resulting in an employer specific work permit, is there to protect Canada and BC's labour market and ensure Canadians/British Columbians are first in line for jobs.

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Telephone: 250 952-6567

Reviewed by				
Dir:	ED:	ADM:	DM:	MIN:

## APPENDIX 1 – News Article

CBC

01-Mar-2014 08:30

Chad Pawson: The labour movement in the East Kootenay is asking for changes to the federal temporary foreign worker program. It's for five Filipino employees at the Tim Horton's in Fernie. After enduring what they call abuse they want open work permits to find other jobs.

Bob Keating: The Fernie Tim Hortons is being investigated on several fronts, RCMP, labour standards BC and the human rights tribunal are all looking into how the owner treated Filipino staff, staff that are here under the temporary foreign worker program.

The East Kootenay Labour Council has always argued the program is flawed because they say it gives the employer far too much power over a visiting worker. Labour council president Jackie Spain says it has to change. Spain wants five Fernie workers given open permits so they can find other work.

Spain: They've got other employers in the area that are willing to employ them. So it seems like a crazy situation to have a person who is very willing to work, a hard worker, but can't work because they are stuck only being able to work for that employer.

Keating: The owner of the Fernie Tim Hortons has not spoken to CBC but in a letter to the local paper said he treated his employees like family. None of the allegations against him have been proven. [jtst, mjag, xrz]

## APPENDIX 2 – SAMPLE EMPLOYMENT CONTRACT

**The Employer:** \_\_\_\_\_ Business Name (if a Business, provide key business contact under last name/first name):

\_\_\_\_\_ Last Name : \_\_\_\_\_ First Name: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_ Phone Number: \_\_\_\_\_

\_\_\_\_\_ Fax Number: \_\_\_\_\_

\_\_\_\_\_ Email Address: \_\_\_\_\_

**The Employee:** \_\_\_\_\_ Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Home Address: \_\_\_\_\_

\_\_\_\_\_ Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

\_\_\_\_\_ Email Address: \_\_\_\_\_

### The PARTIES agree as follows:

#### Duration of Contract

1. This contract shall have duration of \_\_\_\_\_ months from the date The EMPLOYEE assumes his/her functions. (the "TERM OF EMPLOYMENT").
2. Both parties agree that this contract is conditional upon The EMPLOYEE obtaining a valid work permit pursuant to the Immigration Regulations, and his/her successful entry to Canada.

#### Job Description

3. The EMPLOYEE agrees to carry out the following tasks (describe tasks in detail): \_\_\_\_\_.

#### Work Schedule

4. The EMPLOYEE shall work \_\_\_\_\_ hours per week. He/she shall be paid overtime for any hours of work exceeding \_\_\_\_\_ hours per week. His/her workday shall begin at \_\_\_\_\_ and end at \_\_\_\_\_, or, if the schedule varies by day, specify: \_\_\_\_\_.
5. The EMPLOYEE shall be entitled to \_\_\_\_\_ minutes per day of break time (lunch, coffee breaks etc.....).
6. The EMPLOYEE shall be entitled to \_\_\_\_\_ day(s) off per week, on \_\_\_\_\_.
7. The EMPLOYEE shall be entitled to \_\_\_\_\_ weeks of paid vacation.
8. The EMPLOYEE shall be entitled to \_\_\_\_\_ days of sick leave per year.

#### Wages and Deductions

9. The EMPLOYER agrees to pay The EMPLOYEE, for his/her work, wages of \$ \_\_\_\_\_ per week, or \$ \_\_\_\_\_ per hour. These shall be paid at intervals of \_\_\_\_\_.
10. The EMPLOYER agrees to remit all EMPLOYEE's income deductions to Canada Revenue Agency (in Quebec, also to Revenu Québec) as prescribed by law (including, but not limited to Employment Insurance, Income Tax, Canada Pension Plan or Quebec Pension Plan).
11. The EMPLOYER shall not recoup from the EMPLOYEE, through payroll deductions or any other means, any costs incurred from recruiting the EMPLOYEE.

#### Reviewing Wages

12. If applicable, the EMPLOYER agrees to review and adjust (if necessary) the EMPLOYEE'S wages after 12 months of continuous employment, to ensure they meet the prevailing wage rate for the occupation in the region where the EMPLOYEE shall be employed.

#### Transportation Costs

Use the appropriate no. 13 clause according to the situation.

13. The EMPLOYER agrees to assume the transportation costs of the round trip travel of the EMPLOYEE between his/her country of permanent residence and place of work in Canada, i.e. \_\_\_\_\_ (specify the country of permanent residence and the place of work in Canada). It is the EMPLOYER'S obligation and responsibility to pay for the transportation costs and they cannot be passed on to the foreign worker (i.e. the EMPLOYEE pays for the transportation costs on behalf of the employer and is reimbursed at a later date). Under no circumstances are transportation costs recoverable from the EMPLOYEE.

Or

13. Since the EMPLOYEE is currently in Canada, the EMPLOYER agrees to pay the costs of transporting the EMPLOYEE from his/her current Canadian address to the EMPLOYER'S location of work in Canada, i.e. \_\_\_\_\_ (specify the EMPLOYEE'S current Canadian address and the place of work) and one-way transportation back to the EMPLOYEE'S country of permanent residence i.e. \_\_\_\_\_ (specify the EMPLOYEE'S country of permanent residence). It is the EMPLOYER'S obligation and responsibility to pay for the transportation costs and they cannot be passed on to The EMPLOYEE (i.e. employee pays for his/her own transportation on behalf of the EMPLOYER and is reimbursed at a later date). Under no circumstances are transportation costs recoverable from the EMPLOYEE.

14. If there is a termination of the employer-employee relationship and the EMPLOYEE is hired by a NEW EMPLOYER who has a neutral or positive Labour Market Opinion under the Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C & D) of the Temporary Foreign Worker Program, The EMPLOYEE shall release the ORIGINAL EMPLOYER with the obligation of his/her return transportation cost to his/her country of permanent residence. The NEW EMPLOYER is responsible for the EMPLOYEE 's transportation costs to the new location of work in Canada and back to the EMPLOYEE 's country of permanent residence. The EMPLOYER is obliged to and responsible for paying the transportation costs (i.e. the ORIGINAL EMPLOYER pays incoming transportation costs and the NEW EMPLOYER pays for the return transportation costs to the country of permanent residence). These costs cannot be passed on to the EMPLOYEE (i.e. EMPLOYEE pays for its own transportation on behalf of the EMPLOYER and is reimbursed at a later date). Under no circumstances are transportation costs recoverable from foreign workers.

Temporary foreign workers who change jobs must ensure that their work permits are modified accordingly and EMPLOYERS who hire temporary foreign workers already in Canada must apply to HRSDC/Service Canada for a Labour Market Opinion (LMO) and obtain a neutral or positive LMO.

### **Accommodation**

15. The EMPLOYER agrees to ensure that reasonable and proper accommodation is available for the EMPLOYEE, and shall provide the EMPLOYEE with suitable accommodation, if necessary. If accommodation is provided, the employer shall recoup costs as outlined below. Such costs shall not be more than is reasonable for accommodations of that type in the employment location.

The EMPLOYER \_\_\_\_\_ will / \_\_\_\_\_ will not provide the EMPLOYEE with accommodation.  
(Mark X beside appropriate box)

If yes, The EMPLOYER will recoup the costs at an amount of \$\_\_\_\_\_ per \_\_\_\_\_ (month, two-week period etc.) through payroll deductions.

### **Hospital and Medical Care Insurance**

16. The EMPLOYER agrees to provide health insurance at no cost to the foreign worker until such time as the worker is eligible for applicable provincial health insurance.

Workplace Safety Insurance (Worker's Compensation)

17. The EMPLOYER agrees to register The EMPLOYEE under the relevant provincial government insurance plan. The EMPLOYER agrees not to deduct money from The EMPLOYEE'S wages for this purpose.

**Notice of Resignation**

18. Should the EMPLOYEE wish to terminate the present contract, The EMPLOYEE agrees to give The EMPLOYER written notice thereof at least one week in advance.

**Notice of Termination of Employment**

19. The EMPLOYER must give written notice before terminating the contract of The EMPLOYEE if the EMPLOYEE has completed 3 months of uninterrupted service with the EMPLOYER and if the contract is not about to expire. This notice shall be provided at least one week in advance.

**Contract Subject to Provincial Labour and Employment Legislation and Applicable Collective Agreements**

20. The EMPLOYER is obliged to abide by the standards set out in the relevant provincial labour standards act and, if applicable, the terms of any collective agreement in place. In particular, The EMPLOYER must abide by the standards with respect to how wages are paid, how overtime is calculated, meal periods, statutory holidays, annual leave, family leave, benefits and recourse under the terms of the provincial labour standards act and, if relevant, collective agreement. Any terms of this contract of employment less favourable to The EMPLOYEE than the standards stipulated in the relevant labour standards act is null and void. **IN WITNESS WHEREOF** the parties state that they have read and accepted all the terms and conditions stipulated in the present contract.

Signed at: \_\_\_\_\_

The Employer \_\_\_\_\_

Date \_\_\_\_\_

and at: \_\_\_\_\_

The Employee \_\_\_\_\_

Date \_\_\_\_\_

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**INFORMATION NOTE**

Cliff #: 103762  
Date: March 12 2014

**PREPARED FOR:** Honourable Shirley Bond, Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour

**ISSUE:** Canada-Quebec: Temporary Foreign Workers (TFWs) and Graduates of Quebec Vocational Training Programs.

**BACKGROUND:**

- The Canada-Quebec Accord Relating to Immigration and Temporary Admission of Aliens (the Accord), came into force April 1, 1991. The Accord provides responsibility to the Province of Quebec for the selection, reception and integration of immigrants to Quebec. While other provinces/territories have an immigration agreement with the federal government, the Accord, is the most extensive of all agreements.
- The Accord enables the Province of Quebec to consent to the entry of all TFWs and jointly participate in the Labour Market Opinion (LMO) process through joint Canada/Quebec authority to determine if there are Canadians available to fill the position).
- The LMO process forms part of the federal government TFW Program and, with the exception of Quebec as noted above, is solely administered by Employment and Social Development Canada (ESDC). The process requires employers to demonstrate there is a shortage of Canadians to do the job by providing proof of recruitment efforts as part of their LMO application. However, some TFWs are not required to work under an LMO such as TFWs that enter under NAFTA or youth on a working holiday.
- Some provinces, including BC, by way of their immigration agreements with the federal government have TFW LMO exemption authorities. However, Citizenship and Immigration Canada (CIC) remains responsible for issuing TFW work permits.
- In addition to and derived from the Accord, is the *Memorandum of Understanding to facilitate the entry of certain temporary foreign workers into Quebec and to facilitate the issuance of a work permit to certain graduates of Quebec vocational training programs* (MOU), signed on January 25, 2012 (see Appendix 1). The MOU focuses on two specific areas: 1) TFWs and the LMO process; and, 2) Vocational training graduates and open work permits
- As regards TFWs and the LMO process, the MOU provides Quebec the authority to identify occupations needed to meet labour market demands, establish an in-demand occupation list and subsequently provide a simplified process for Quebec employers wanting to fill these in-demand positions. The process is simplified by removing the requirement to of employers to present proof of recruitment efforts in their LMO. This results in a streamlined joint Canada and Quebec LMO process.

- As part of the Canada-British Columbia Immigration Agreement (CBCIA) TFW Annex, BC has authorities that are somewhat similar to Quebec's including:
  - Sections 4.2/4.3: Enabling BC to make a recommendation to CIC to issue work permit(s) to individual/groups of foreign nationals in specific occupations to work for employer(s) without requiring a LMO.
  - Section 7.2: Enabling the creation of a pilot project, in consultation with the Canada-BC TFW Working Group, to develop occupation-specific limited mobility work permits for TFWs working in those occupations in industries that meet BC's economic development needs. The CBCIA TFW Annex notes that the pilot project was to be initiated within 12 months of the TFW Annex signing (2010), however, it was not launched.
- As regards vocational training graduates and open work permits, the Quebec MOU provides the authority to issue open work permits to foreign nationals who have graduated from a qualifying vocational training program in Quebec; the majority of which is at the secondary school level. The open work permit, which does not specify the employer or the job, is valid for a time period approximately equivalent to the vocational training program.
- Currently in BC, international students attending vocational schools are supported through the federal government's Post-Graduate Work Permit Program. The program allows students that have graduated from Canadian post-secondary institution (including trade/technical schools) to gain work experience. Eligible students are issued an open work permit for the length of the study program up to a maximum of three years.

## **DISCUSSION:**

### ***Key Considerations:***

- While BC does not have authorities to the extent provided Quebec, it is currently afforded adequate authorities to support its current and future labour market needs.

s13, s16, s17

**CONCLUSION:**

s13, s16, s17

**Attachments:** Appendix 1: Canada-Quebec MOU

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## APPENDIX 1

### Memorandum of Understanding to facilitate the entry of certain temporary foreign workers into Quebec and to facilitate the issuance of a work permit to certain graduates of Quebec vocational training programs

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#### BETWEEN

##### THE GOVERNMENT OF CANADA,

represented by the Minister of Human Resources and Skills Development, hereinafter referred to as “HRSDC” and the Minister of Citizenship and Immigration, hereinafter referred to as “CIC”

#### AND

##### THE GOVERNMENT OF QUEBEC,

represented by the Minister of the Ministère de l’Immigration et des Communautés culturelles, hereinafter referred to as “MICC” and the Minister responsible for Affaires intergouvernementales canadiennes et de la Francophonie canadienne

**Whereas**, in the Canada-Quebec Accord relating to Immigration and Temporary Admission of Aliens (hereinafter “the Accord”), Canada and Quebec agreed to carry out individual and joint responsibilities with regard to immigration;

**Whereas** section 22 of the Accord provides that Quebec’s consent is required in order to admit into the province any temporary foreign worker whose admission is subject to Canada’s requirements relating to the availability of Canadian workers;

**Whereas** section 20 of Annex A of the Accord provides that Quebec shall be responsible for providing prior consent for the granting of entry to any temporary foreign worker whose admission is governed by the requirements concerning the availability of Canadian workers;

**Whereas** paragraph 20a) of that same annex also provides that Quebec shall be responsible for determining jointly with Canada whether there is a Canadian citizen or permanent resident available to fill the position offered to the temporary worker;

**Whereas** the admission into the country of a foreign national who wants to stay in Canada temporarily to work or study is governed by the *Immigration and Refugee Protection Act* (IRPA) and the *Immigration and Refugee Protection Regulations* (IRPR), as well as by the *Act respecting immigration to Québec* and the *Regulation respecting the selection of foreign nationals*, when this foreign national intends to go to Quebec and his or her admission is governed by Canada’s requirements regarding the availability of Canadian workers, in accordance with Annex 1;

**Whereas** MICC would like to modify the process for assessing applications for a Labour Market Opinion (LMO) with regard to economic sectors that have a pressing need for specialized labour;

**Whereas** foreign nationals who have graduated and choose to remain in Canada can be a valuable source of skills for Quebec employers;

**Whereas** the labour shortages are expected in Quebec in upcoming years, in certain occupations requiring professional training;

**Whereas** CIC and MICC recognize that offering foreign nationals who recently graduated from a vocational training program in Quebec limited access to the Canadian labour market would enhance the

global competitiveness of institutions providing vocational training and the Canadian and Quebec economy;

**Whereas** section 19 of Annex A of the Accord provides that Canada will consult Quebec on the identification of categories of temporary foreign workers whose work permit is not governed by conditions respecting the availability of Canadian workers, and will advise Quebec of these categories as well as any changes which Canada intends to make to such categories;

**Whereas** CIC recently granted limited access to the labour market by designating, under subparagraph 205(c) (ii) of the IRPR, the temporary work that could be performed by foreign nationals who recently graduated from certain vocational training programs offered by vocational training centres governed by Quebec's education legislation and who meet the admissibility criteria set out in clause 9 of this memorandum of understanding.

**Whereas** this limited access to the labour market is currently offered, under subparagraph 205(c) (ii) of the IRPR, only to foreign nationals who recently graduated from a program of study in post-secondary institutions in Canada;

**Whereas** vocational training programs are offered across Canada by post-secondary institutions, except in Quebec, where the vast majority of such programs are offered by secondary schools;

Now therefore the parties agree as follows:

## **Section 1: Simplified process for assessing applications for a Labour Market Opinion (LMO)**

### **1. Purpose**

The purpose of this memorandum of understanding (MOU) is to simplify the process for assessing LMO applications that is carried out jointly by HRSDC and MICC in accordance with subsection 203(4) of the IRPR and Annex A of the Accord. The simplified process applies to LMO applications for temporary foreign workers who intend to work in Quebec in a 0, A or B occupation under the *National Occupational Classification* published by HRSDC, in an economic sector Quebec has identified as having a pressing need for specialized labour.

### **2. Roles of MICC and HRSDC**

#### **a) MICC:**

- Provide HRSDC with the list of occupations for those industries where a labour market shortage has been identified, to ensure applications submitted in relation to these occupations are processed using the simplified process; the list is established using a methodology developed by Emploi-Québec in collaboration with MICC, and which will be transmitted to HRSDC;
- Provide HRSDC, at least 60 days before the anniversary date of the effective date of the Memorandum of Understanding (MOU), with the list of in-demand occupations that Emploi-Québec will update annually, along with the methodology used to create the list;

#### **b) HRSDC:**

- will indicate on its website that employers wanting to fill positions in these occupations must send their LMO application directly to the Service Canada Centre;

#### **c) HRSDC and MICC:**

- will post the procedure for employers using the simplified modified process on their respective websites;
- will post the list of in-demand occupations on their respective websites.

### 3. Simplified processing of a Labour Market Opinion (LMO) application

a) In the case of an employer wanting to fill a position in Quebec with a temporary foreign worker whose occupation is on the list of in-demand occupations, HRSDC will examine the employer's LMO application against the requirements set out in section 203 of the IRPR, as stated in Annex 2, and will provide MICC with a written recommendation and elements of the analysis based on the requirements assessed.

b) HRSDC will provide priority processing to LMO applications submitted under clause 3a) of this MOU.

c) MICC will give priority to LMO applications submitted by HRSDC under clause 3a) of this MOU and will examine them against the requirements of the *Regulation respecting the selection of foreign nationals* set out in Annex 2.

d) HRSDC and MICC will jointly inform the employer of their LMO, in writing.

e) HRSDC will forward the LMO to CIC.

### 4. Designated contact offices

The following are designated to implement section 1 of this MOU:

a) for HRSDC:

Director General  
Temporary Foreign Worker Directorate  
Human Resources and Skills Development Canada  
Place du Portage, Phase IV  
140 Promenade du Portage, 4th Floor  
Gatineau, Quebec K1A 0J9

b) for MICC:

Director  
Direction des politiques et de programmes d'immigration  
Ministère de l'Immigration et des Communautés culturelles  
360 McGill St., 3rd Floor  
Montréal, Quebec H2Y 2E9

### 5. Provisions

Annex 2 of this MOU may be amended jointly in writing by the director of MICC and the director general of HRSDC, who are both designated in clause 4 of this MOU.

The conditions for sharing personal information under this MOU will be set out in a separate annex, which will be concluded no later than one year after the MOU takes effect. This agreement will be signed by the parties and must have previously received all the authorizations that would eventually be required.

### 6. Committee

A committee made up of representatives of HRSDC and MICC is established to monitor the implementation of section 1 of this MOU.

## **Section 2: Issuance of an open work permit for graduates of an occupational training program in Quebec**

### **7. Purpose**

The purpose of this MOU is also to describe the eligibility conditions for issuing a work permit for designated work under subparagraph 205(c)(ii) of the IRPR for graduates of a vocational training program in Quebec.

### **8. Roles of MICC and CIC**

a) MICC will provide, via an internet site identified by the Ministère de l'éducation, du Loisir et du Sport (MELS), information pertaining to professional training educational institutions and professional training programs recognized by MELS.

b) CIC:

- Will issue a work permit under paragraph 205(c)(ii) of the IRPR to foreign nationals who have graduated from a qualifying professional training program and who meet the eligibility criteria set out in clause 9 of this MOU. This open work permit, which does not specify the employer or the job, is issued for a time period stated in clause 11 of this MOU.
- Will consult MICC on changes to the policies on and processes for issuing an open work permit to foreign nationals who recently graduated from a course of study in a Canadian institution when such changes could have an impact on this MOU.

### **9. Eligibility conditions for issuing a work permit**

a) The foreign national must have taken full-time professional training in a public or private educational institution in Quebec.

b) In the public sector, the eligible professional training must be provided by a centre for professional training administered by a school board or a government institution. In the private sector, the training must be provided by an establishment licensed by the Minister of Education, Recreation and Sports to offer a program leading to a degree or an attestation, issued by the Minister, upon successful completion of a program.

c) The foreign national must have successfully completed a professional training program leading to a *diplôme d'études professionnelles* (DEP) or an *attestation de spécialisation professionnelle* (ASP), issued by MELS, and which is a minimum of 900 hours in length (equivalent to eight months).

d) The application for a work permit must include the DEP or the ASP issued by MELS certifying that the foreign national has successfully completed his or her professional training program, or an official attestation or a transcript from a school board or a recognized private educational institution.

e) The application for a work permit must be submitted within 90 days of confirmation of successful completion of the program.

f) The foreign national must hold a valid study permit when applying for a work permit.

g) The foreign national must be at least 18 years of age when applying for a work permit.

h) The foreign national must meet all requirements under the IRPA and the IRPR, including not being inadmissible.

## 10. Restrictions

The following foreign nationals may not obtain a work permit under subparagraph 205(c)(ii) of the IRPR (see clause 8b):

- those who take a distance learning program;
- those who have previously been granted an open work permit after obtaining another diploma.

## 11. Other conditions

### a) Length of permit

- The open work permit is valid for three years if the vocational training program runs for 1,800 hours (equivalent to two years) or more.
- The open work permit is valid for a period equal to the length of the training if the program runs for at least 900 hours (equivalent to eight months), but less than 1,800 hours (equivalent to two years).

### b) Specific circumstances

- Foreign nationals who have changed institutions during their training program must have a combined total of at least 900 hours (equivalent to eight months) of courses in institutions located in Quebec.
- CIC will consult MICC on improvements to the policies and on processes for granting open work permits to foreign nationals who recently graduated from a course of study in a Canadian institution; such improvements will entail the same changes to this MOU, where they are applicable and subject to Quebec's approval.

## 12. Designated contact offices

The following are designated to implement section 2 of this MOU:

### a) for CIC:

Director  
Temporary Resident Policy and Program Development Division  
Immigration Branch  
Citizenship and Immigration Canada  
Jean Edmonds Tower South  
365 Laurier St. West, 8th Floor  
Ottawa, Ontario K1A 1L1

### b) for MICC:

Director  
Direction des politiques et de programmes d'immigration  
Ministère de l'Immigration et des Communautés culturelles  
360 McGill St., 3rd Floor  
Montréal, Quebec H2Y 2E9

### 13. Committee

A committee made up of representatives of CIC and MICC is established to monitor the implementation of section 2 of this MOU.

## **Section 3: Other provisions relating to sections 1 and 2 of the MOU**

### 14. Provisions

- a) Each party is responsible for the administrative costs it incurs in implementing this MOU.
- b) In case of any dispute or disagreement under this MOU or any annex thereof, the parties shall, as much as possible, attempt to resolve the dispute or disagreement through their respective officials or, when necessary, refer the matter to officials at the deputy minister level.
- c) This MOU may be amended at any time by written consent of the parties.
- d) Each party may terminate this MOU at any time with at least 90 days' written notice to the other parties.
- e) This MOU takes effect in the 30 days following the date of its last signature, for an indeterminate period.

In witness whereof, this MOU is signed in quadruplicate as follows:

#### **FOR THE GOVERNMENT OF CANADA**

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2011:

\_\_\_\_\_  
Ian Shugart  
Deputy Minister of Human Resources and Skills Development  
on behalf of the Minister of Human Resources and Skills Development  
(for sections 1 and 3)

AND

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2011:

\_\_\_\_\_  
Neil Yeates  
Deputy Minister of Citizenship and Immigration  
on behalf of the Minister of Citizenship and Immigration  
(for sections 1, 2 and 3)

#### **FOR THE GOVERNMENT OF QUEBEC**

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2011:

\_\_\_\_\_  
Marie-Claude Champoux  
Deputy Minister of Immigration and Cultural Communities  
on behalf of the Minister of Immigration and Cultural Communities  
(for sections 1, 2 and 3)

AND

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2011:

---

Yves Castonguay  
Associate Secretary General of Canadian Intergovernmental Affairs  
on behalf of the Minister responsible for Canadian Intergovernmental Affairs and the Canadian  
Francophonie  
(for sections 1, 2 and 3)

---

## ANNEX 1

### Statutory and Regulatory Provisions That Apply to the Memorandum of Understanding

1. Section 3.2 of the *Act respecting immigration to Québec* provides that the Minister shall issue a certificate of acceptance to a foreign national who is seeking temporary admission to Quebec to work and who meets the conditions determined by the *Regulation respecting the selection of foreign nationals*.
2. Subparagraph 200(1)(c)(iii) of the *Immigration and Refugee Protection Regulations* (IRPR) states that an officer shall issue a work permit to a foreign national if the officer has determined under section 203, the letter of offer presented by the foreign national is genuine and that the employment of the foreign national is likely to have a neutral or positive effect on the labour market in Canada.
3. Subsection 203(1) of the IRPR states that on application under Division 2 for a work permit made by a foreign national other than a foreign national referred to in subparagraphs 200(1)(c)(i) and (ii), an officer shall determine, on the basis of an opinion provided by the Department of Human Resources Development (now the Department of Human Resources and Skills Development, HRSDC), if the job offer is genuine and the employment of the foreign national is likely to have a neutral or positive effect on the labour market in Canada.
4. Subsection 203(2) of the IRPR states that the Department of Human Resources Development (now HRSDC) shall provide the opinion on the request of an officer or an employer or group of employers in respect of:
  - a. an offer of employment to a foreign national; and
  - b. offers of employment made, or anticipated to be made, by an employer or group of employers.
5. Subsection 203(4) of the IRPR states that in the case of a foreign national who intends to work in the Province of Quebec, the opinion provided by the Department of Human Resources Development (now HRSDC) shall be made in concert with the competent authority of Quebec (MICC).

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## ANNEX 2

### Regulatory Provisions Pertaining to the Modified Process for Assessing Applications for a Labour Market Opinion (LMO)

1. In the case of an application for a Labour Market Opinion (LMO) for a temporary foreign worker whose occupation is on the list of in-demand occupations, as defined in clause 1, HRSDC will examine the employer's application against the requirements set out in section 203 of the IRPR. HRSDC will use information provided by MICC in examining the application against the requirements set out in section 203 of the IRPR, such as the factors set out in paragraphs 203(3)(c) and 203(3)(e).

2. In the case of an application for a Labour Market Opinion (LMO) for a temporary foreign worker whose occupation is on the list of in-demand occupations, as defined in clause 1, MICC will examine the application against the requirements set out in sections 50.1 and 50.3 of the *Regulation respecting the selection of foreign nationals*.

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**INFORMATION NOTE**

Cliff #: 104060  
Date: March 24, 2014

**PREPARED FOR:** Honourable Shirley Bond, Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour

**ISSUE:** s13, s16 temporary  
foreign worker (TFW) protections

**BACKGROUND:**

- In response to increased media attention, the Federal government is conducting an extensive review of the TFW program. Beginning in April 2013 and more recently in February 2014, Citizenship and Immigration Canada (CIC) has announced a number of statutory, regulatory, and administrative reforms to the TFW Program

s13, s16

s13, s16

s13, s16 some provinces have introduced legislation requiring recruiters to be provincially licensed and for employers that hire TFWs to register with the province before applying to the federal government for a Labour Market Opinion (LMO). This requires provincial governments to attest to the employer being in good standing related to provincial labour practices.

- To date, Manitoba (2009), Nova Scotia (2013) and Saskatchewan (2013) have enacted such legislation, while Ontario (2014) has tabled the *Ontario Immigration Act* to enable them to establish employer and recruiter registries.
- BC considered

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s13

**DISCUSSION:**

- Supporting appropriate use of the TFW Program by responsible employers is important to BC's labour market development. BC also wants to maintain a productive relationship with CIC,

s13, s16

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- Given the review of the TFW Program is still underway, and the necessity to support employers in BC – especially LNG proponents – there may be

s13, s16

One

such possibility, suggested by

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s13, s16

- s13, s16 may prove beneficial in a number of ways including:
  - informing both TFWs and employers of their rights and obligations under the Program;

s13, s16

## CONCLUSION:

s13, s16

- s13, s16 until after completion of the federal government TFW Program review to clarify whether the conditions leading to the suggestion in 2012 have been addressed through federal policy and program changes.

Contact: Keith Godin, A\Executive Director, Labour Market and Immigration Division  
Telephone: (250) 952-6567

Reviewed by				
Dir: SR	ED: KG	ADM:	DM:	MIN:

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**INFORMATION NOTE**

Date: March 26, 2014

**PREPARED FOR:** Honourable Shirley Bond, Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour

**ISSUE:** Temporary Foreign Workers

**BACKGROUND:**

- The TFW Program is a federal program jointly administered by Citizenship and Immigration Canada (CIC) and Employment and Social Development Canada (ESDC).
- ESDC is responsible for issuing Labour Market Opinions (LMO), through which the Department confirms that employers have made reasonable attempts to fill their vacancies domestically, while CIC is responsible for issuing work permits.
- In response to widespread concerns with the TFW program, the federal government announced it would accelerate its review of the TFW Program, first unveiled in Budget 2012 and since April 2013 has announced a suite of program reforms aimed at ensuring that Canadian citizens and permanent residents are first in line for available jobs (see Appendix 1)..
- Further programs reforms are expected in the spring of 2014 and will likely continue into the fall/winter of 2014. The federal government has consulted with BC on some program changes and the province continues to provide input to ensure to the extent possible, protection of BC's labour market.

s13, s16

- Even with efforts to ensure British Columbians/Canadians are trained and first in line for jobs, labour shortages will persist and a temporary workforce will be essential to fill the temporary positions in sectors such as liquified natural gas (LNG). Use of the TFW Program in this regard will be instrumental.

**DISCUSSION:**

- As BC is forecasting one million job openings between 2010 and 2020, and based on the province's demographic data, it is expected the BC's population will only provide workers for two-thirds of those jobs, the remaining one-third will need to be filled by skilled Canadian and international workers.
- The 2010 Canada-BC Immigration Agreement includes a Temporary Foreign Worker (TFW) Annex, which allows the Province to streamline the entry of TFWs by providing a recommendation to the federal government for the exemption of foreign nationals from the LMO requirement.

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- BC is also working with CIC on

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s13, s16, s17

**CONCLUSION/KEY STATEMENTS:**

- BC supports the federal government ongoing TFW Program reforms to ensure that Canadians are first in line for available jobs and that TFW protections are strengthened.
- BC must s13, s16, s17  
to enable it to meet its  
projected labour market shortages and ensure appropriate levels of support are established to further its economic development.

**ATTACHMENTS:**

Appendix 1: TFW Program Reforms Summary	Appendix 2: <span style="float: right;">s13, s16, s17</span>
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Contact: Keith Godin, A/Executive Director, Policy and Stakeholder Regions  
Telephone: (250 952-6567)

Reviewed by				
Dir: SR	ED:	ADM:	DM:	MIN:

## APPENDIX 1

### TFW Program Reforms Summary

- Since April 2013, the federal government has implemented the following TFW Program reforms:
  - Cancellation of the flexible wage structure, which means employers must pay the prevailing wage in their region for the occupation. The flexible wage structure allowed for wages that were up to 15% below the average wage for an occupation in a specific region, if the employer could demonstrate that the wage was consistent with what Canadian workers were being paid;
  - Suspension of the Accelerated LMO process which provided turnaround of 10 business days for LMO processing to qualified employers;
  - Increased authority for the federal government to suspend, revoke and refuse to process LMOs and to revoke work permits;
  - Introduction of new processes to ensure that the TFW Program is not used to facilitate the outsourcing of Canadian jobs;
  - Introduction of a requirement for employers to provide a plan showing how they will transition to a domestic workforce.
  - Introduction of a \$275 fee for employers for each position included on their LMO application;
  - English and French now identified as the only languages that can be used as a job requirement on an LMO application (with some specified exceptions);
  - Enhanced authority for the federal government to verify employer compliance with TFWP requirements (such as efforts to hire Canadians) and to apply consequences for non-compliance; and
  - Enhanced protections to ensure TFWs are not exposed to abuse, including physical, sexual, psychological, and financial abuse.
  
- In the February 2014 budget announcement, the federal government stated that it plans to further reform the TFW Program by strengthen the LMO process including:
  - realigning the application streams to better identify vulnerable TFWs and improve processing times for certain applications – details and further public announcement expected in the Spring 2014;
  - limiting the use of the program in high-unemployment regions s13, s16
  
- s13, s16
  
- ensuring that employers transition to a Canadian workforce through better prevention, detection and response to employer non-compliance s13, s16
- s13, s16
  
- Also included in the announcement was the federal government's statement to introduce further program reforms for those workers exempt from the LMO process (e.g. those that enter BC under the youth mobility program and that have an open

work permit) to ensure the program continues to promote economic and labour market interests – further public announcements and implementation dates are unknown at this time.

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## APPENDIX 2

s13, s16, s17

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**MEETING NOTE**

Cliff #:

Date: April 7, 2014

**PREPARED FOR:** Minister Shirley Bond

**DATE AND TIME OF MEETING:** April 8<sup>th</sup>, xxxx,

**ATTENDEES:** TBD

**ISSUE(S):** Immigration options for LNG Employers

**BACKGROUND:**

s13, s17 has inquired into immigration options to support skill shortages with s13, s17  
s13, s17 LNG project. There are a variety of immigration options for LNG employers, depending on need, location, urgency, and a number of other factors. Federal and Provincial permanent and temporary program options include:

*Federal Skilled Worker (FSW) Program:*

- The FSW Program is administered by Citizenship and Immigration Canada (CIC) and is the largest economic immigration stream to B.C.
- The FSW Program comprises skilled workers in NOC O, A and B in select occupations (e.g. engineering managers, mining, chemical, petroleum engineers) who wish to settle permanently in Canada.

*Federal Skilled Trade Worker Program*

- The Federal Skilled Trades Program (FSTP) helps to facilitate the immigration of skilled trades people to Canada. Applicants are selected according to criteria that placed greater emphasis on practical training and work experience rather than on formal education.
- Employers can help qualified temporary foreign workers transition into permanent residence through the program by making them a qualifying job offer, applicants must have at least two years of work experience (within the last five years) in one of 43 eligible skilled trades (e.g. supervisors, petroleum, gas and chemical processing and utilities, power engineers and power systems operators).

*Provincial Nominee Program (PNP):*

- The PNP is operated by the Province. in partnership with CIC. The program allows BC to address our labour market and economic development needs.
- The objective of the PNP is to help employers attract and retain qualified workers with needed skills and experience.
- The PNP assesses applications and nominates candidates for permanent residence, after which CIC makes the final decision on each application.

- Skilled and semi-skilled workers who have a job offer from an eligible B.C. employer also receive expedited immigration and support for temporary work permits through the TFW Program (see below).

*Temporary Foreign Worker (TFW) Program:*

- The TFW Program is a federal program jointly administered by CIC and ESDC.
- The TFW Program enables employers to use foreign workers when no Canadians are available to fill the position.
- The 2010 Canada-BC Immigration Agreement includes a TFW Annex, which allows the Province to streamline the entry of TFWs by providing a recommendation to the federal government for the exemption of foreign nationals from LMO requirements.

**DISCUSSION:**

- BC is forecasting one million job openings between 2010 and 2020. Based on the province's demographic data, it is expected the BC's population will only provide workers for two-thirds of those jobs. The remaining one-third will need to be filled by skilled Canadian and international workers.
- The BC PNP is one stream of economic immigration. As a labour market-driven immigration program, the PNP is often a pathway for temporary workers to transition to permanent residence and is the only economic immigration option available to lower-skilled foreign workers.

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- BC is also working with CIC on

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**KEY MESSAGING:**

- BC knows it will need skilled immigrants to fill projected labour shortages both permanent and temporary including within the LNG sector.
- While we are doing all that we can to train British Columbians to fill expected shortages we are also looking to develop ways to ensure employers have the workforce they need to be successful.
- In that regard we are enhancing our

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s13, s17, s16

Contact: Keith Godin, A\Executive Director, Labour Market and Immigration Division  
Telephone: (250) 952-6567

Reviewed by				
Dir:	ED:	ADM:	DM:	MIN:

## APPENDIX 1

s13, s16, s17

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**INFORMATION NOTE**

Cliff #:  
Date: April 7, 2014

**PREPARED FOR:** Honourable Shirley Bond, Minister

**ISSUE:** Status update on current TFW related investigations and the LMO process

**BACKGROUND:**

The Federal government Labour Market Opinion process:

- The TFW Program is a federal program jointly administered by Citizenship and Immigration Canada (CIC) and Employment and Social Development Canada (ESDC). The province has no role in the administration of the TFW Program.
- ESDC is responsible for issuing Labour Market Opinions (LMO), through which the Department confirms that employers have made reasonable attempts to fill their vacancies domestically, while CIC is responsible for issuing work permits. The province has no role in the administration of the TFW Program.
- When an employer is unable to find Canadian workers, they are able to apply for a Labour Market Opinion. The purpose of the LMO is to verify there is a shortage of Canadians/permanent residents willing and able to do the job, and therefore, hiring a TFW will not have a negative impact on the Canadian labour market.
- TFW work permits tied to a specific employer require an employer to have a positive/neutral Labour Market Opinion (LMO) from ESDC. The TFWs' work permit application must include a copy of the positive LMO and, for low-skilled TFWs, a copy of the employment contract.
- When employers hire TFWs, there are different requirements for low-skilled and high-skilled workers. For example, employers wishing to hire TFWs under the low-skilled stream are allowed to hire for a maximum of 24 months, must pay round trip airfare, must ensure there is reasonable and proper accommodation available, and must enter into an employment contract.
- The employment contract offers additional protection measures for low-skilled TFWs and must include: 1) contract duration, 2) detailed job description, 3) work schedule, 4) wages and deductions, 5) a wage review after 12 months of continuous employment to ensure prevailing wage rate, 6) transportation costs, 7) accommodation, 8) hospital and medical care insurance, 9) notice of resignation/termination, and 11) a clause related to provincial labour and employment laws and applicable collective agreements.
- Employers must comply with the rules of the TFW Program. If through an investigation from ESDC they are found to be non-compliant, they are subject to a number of penalties including suspension of pending work permits, fines or potentially being precluded from using the Program for a period of time.

Current TFW related investigations:

- A MacDonald's franchise employer in Victoria is alleged to have displaced local workers with TFWs.

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- The unemployment rate as of March 2014 in Vancouver Island / Coast is 6.1%, 7.8% in the Kootenays and 5.4% in Victoria. For those aged 15-24 in Victoria the rate is 8.9%. Youth unemployment rates by region require a custom request from Statistics Canada – this has been ordered but will not be available today.

# **KEY MESSAGES:**

- While Minister Kenney has made a public statement on the MacDonalds investigation

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- Further, the Province also supports the Federal government in their ongoing review and changes to the TFW program.
- TFWs in BC are covered by all the same employment laws as any other worker.

Contact: Name, Keith Godin, A/Executive Director, Immigration Policy and Stakeholder Relations

Telephone: 250 952-6567

Reviewed by				
Dir:	ED:	ADM:	DM:	MIN:

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**INFORMATION NOTE**

Cliff #:  
Date: April 8, 2014

**PREPARED FOR:** Honourable Shirley Bond, Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour

**ISSUE:** Update: Temporary Foreign Work (TFW) Program Reforms.

**BACKGROUND:**

- On March, 28, 2014, the federal government introduced Bill 3, *An Act to Implement Certain Provisions of the Budget Tabled in Parliament on February 11, 2014 and Other Measures*. The Act will enable the introduction, by way of an *Immigration and Refugee Protection Act* Regulation, of a system of administrative monetary penalties to an employer that contravenes requirements in relation to the employment of a foreign national.
- The change referenced in the Bill is the result of the February 2014, federal budget where the federal government proposed to invest \$11.0M over two years and \$3.5M per year ongoing, in the Temporary Foreign Worker Program to strengthen the Labour Market Opinion (LMO) process.
- In response to concerns with the TFW Program, which is jointly administered by Citizenship and Immigration Canada (CIC) -- responsible for work permits, and Employment and Social Development Canada (ESDC) -- responsible for LMOs, the federal government has announced a number of program reforms aimed at ensuring that Canadians have the first chance at available jobs. Appendix A includes a summary of changes announced beginning in April 2013.

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**DISCUSSION:**

- The introduction of a monetary scheme to penalize employers builds on other TFW Program compliance measures introduced December 31, 2013 including additional requirements related to employer involvement in the business and employment conditions, enhanced authority for compliance reviews and enhanced authority for workplace inspections when non-compliance is suspected.
- While some changes to the TFW Program, such as increased advertising requirements and the introduction of the \$275 processing

fee, have raised concerns amongst some employers, changes related to enhancing the compliance regime and protecting TFWs are not raising similar concerns.

- The use of TFWs in high-demand occupations is an important part of BC's labour market development, especially as LNG growth will add demand pressure across a number of occupations.
- The enhanced compliance and enforcement regime being introduced by the federal government and the joint position of BC and Canada that Canadians be first in line for jobs will lay a stronger foundation for the use of TFWs in BC when required.

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- As part of their original February 2014 budget announcement, federal government also stated they would introduce further program reforms for those workers exempt from the LMO process, such as those that enter BC under the youth mobility program, however, specifics in relation to these changes are not known at this time.

**KEY MESSAGES:**

- JTST will continue to work with CIC Program changes ensuring, to the extent possible, that BC's interests are considered.
- Increased compliance and enforcement related to misuse of the TFW Program will support BC's further use of TFWs in occupational areas where domestic workers are not available.

s13, s16

Contact: Keith Godin, A/Executive Director, Labour Market and Immigration Division  
Telephone: (250 952-6567)

Reviewed by

Dir:	ED:	ADM:	DM:	MIN:
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## **Appendix A**

### **Overview of TFW Program Changes 2013/14**

The federal government has been reforming the TFW Program to ensure that Canadians are first in line for jobs and that TFW's are protected.

Statutory, regulatory and administrative changes including:

- cancellation of the flexible wage structure, meaning employers must pay TFWs the prevailing wage in their region for the occupation. The flexible wage structure allowed for wages that were up to 15% below the average wage for an occupation in a specific region, if the employer could demonstrate that the wage was consistent with what Canadian workers were being paid;
- suspension of the Accelerated LMO process that provided a turnaround of 10 business days for LMO processing to qualified employers;
- increased authority for the federal government to suspend, revoke and refuse to process LMOs and to revoke work permits;
- introduction of new processes to ensure that the TFW Program is not used to facilitate the outsourcing of Canadian jobs;
- introduction of a requirement for employers to provide a plan showing how they will transition to a domestic workforce;
- introduction of a \$275 fee for employers for each position included on an employer's LMO application;
- English and French identified as the only languages that can be used as a job requirement on an LMO application (with some specified exceptions);
- enhanced protections to ensure TFWs are not exposed to abuse, including physical, sexual, psychological, and financial abuse;
- enhanced authority for the federal government to verify employer compliance with TFW program requirements (such as efforts to hire Canadians); and,
- a system of administrative monetary penalties and applicable amounts to a contravention of an employer.

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**MEETING NOTE**

Cliff #: 104252

Date: April 9, 2014

**PREPARED FOR:** Honourable Shirley Bond, Minister

**DATE AND TIME OF MEETING:** April 11, 2014 at 2:00 pm in the Prince George  
Consistency Office

**ATTENDEES:** Michael Schneider, Vice President Guide Outfitters Association of BC

**ISSUE(S):** s13 the Guide-Outfitting Sector

**BACKGROUND:**

- The Guide Outfitters Association of British Columbia (GOABC) represents the guide outfitting industry to government and advocates for science-based wildlife management. The association represents 70-80% of the guide outfitters in BC, Yukon, Northwest Territories and Nunavut.
- GOABC's membership employs hunting guides, assistant guides, horse wranglers and other related occupations. GOABC's reports that the industry provides 2,000 jobs in BC's backcountry and generates approximately \$116 million in revenue each year (about 0.8% of total BC tourism revenues in 2012).
- 

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- JTST (Tourism Division) has been working with GOABC since early 2014 to explore and address GOABC's labour market concerns.

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**DISCUSSION:**

**1. Training Opportunities for BC Workers**

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## 2. TFWs

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- The PNP has only received two applications for this occupation and both resulted in a nomination. PNP is the only immigration program that provides a pathway to permanent residency for Guide Outfitter professionals.

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- The TFW Program is undergoing a number of reforms and the federal government may introduce priority processing of LMOs for priority occupations as determined at the national and jurisdictional levels. While further research will be done to identify BC's priority occupations, emphasis will be placed on occupations that support economic growth in the Province and where there is an identified shortage of British Columbians to fill the labour market need.

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## SUGGESTED RESPONSES

- JTST supports the ongoing growth of the BC tourism sector.
- Ministry staff will continue to work collaboratively with GOABC to support the sector's improved access to the skilled workers it needs.

Contact: Keith Godin, Executive Director, Labour Market & Immigration Division  
Telephone: 250 952-6567

Reviewed by			
ED:	ADM:	DM:	MIN:

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**INFORMATION NOTE**

Cliff #: 104227

Date: April 8, 2014

**PREPARED FOR:** The Honourable Shirley Bond, Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour

**ISSUE:** Restaurants Canada's s13 labour market issues

**BACKGROUND:**

- Restaurants Canada (RC) has over 30,000 members across Canada and represents the food service industry providing advocacy, research and events to members. RC is one of 12 members of The Coalition of BC Businesses, an organization that represent over 50,000 small and medium-sized businesses in BC.
- RC presented government with a report entitled "*Hiring Canadians First: What our industry is doing to hire unemployed and underrepresented Canadians First*" (Appendix 1, "The Report") highlighting the degree to which their members are already hiring vulnerable groups of Canadians NR
- The Report documents responses from 70 participants representing over 5,000 restaurants. It suggests the Canadian restaurant industry faces a long-term labour deficit, with a shortage of over 135,000 workers by 2030.
- Over 75% of respondents employ new immigrants, workers 55+, persons with disabilities, and youth (15-24). All respondents report hiring Canadians first is a priority and many report employing individuals previously unemployed or underemployed.

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- In 2013, 17.6% of all TFWs with a Labour Market Opinion (LMO) in BC were employed in the food services industry, with 7.6% of the total in low skilled positions.

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## DISCUSSION:

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- RC is partnered in employment programs in Atlantic Canada, Alberta, Saskatchewan and Manitoba to connect businesses with work ready employees with disabilities and has developed an employment pilot program with Alberta to provide disadvantaged and underrepresented populations with opportunities to work in the food service industry. No such partnership exists in BC.
- In BC, the Skills Connect Program helps match immigrants to jobs that fit their skills, including those in the food services industry.

s13, s16, s17

- Though these changes are challenging for the food and beverage industry, the potential improvement s13, s16 s important to its future role in economic growth and critical to the success of major projects.

## CONCLUSION:

- The restaurant industry is engaged in direct employment programs in other provinces but has not yet established programs in BC.
- NR
- The BC government supports the review of the TFW program and measures to increase accountability and compliance to program requirements. At the same time, TFWs play a critical role in supporting BC regional labour market and economic development by allowing employers to fill critical labour and skills shortages.

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## ATTACHMENTS:

Appendix 1 – *Hiring Canadians First: What our industry is doing to hire unemployed and underrepresented Canadians first*

NR

Contact: Keith Godin, A\Executive Director, Labour Market and Immigration Division  
Telephone: (office) (cell)

Reviewed by				
Dir:	ED:	ADM:	DM:	MIN:

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**INFORMATION NOTE**

Cliff #:104359

Date: April 17, 2014

**PREPARED FOR:** Honourable Shirley Bond, Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour

**ISSUE:** TFW Program – International Experience Class

**BACKGROUND:**

- A recent article in the Vancouver Sun (April 13, 2014) highlighted significant increases to the number of Irish workers allowed to enter Canada under the International Experience Canada (IEC) program and cited concerns that the IEC is being used as a way for employers to avoid the federal Labour Market Opinion (LMO) process and hire temporary foreign workers.
- The IEC is a bilateral reciprocal employment program that allows youth aged 18-35 from 32 countries to work in Canada for up to two years on an open work permit under one of three employment streams: Working Holiday, Young Professionals, and international Co-op (Internship).
- 

s13, s16

- In 2012, then-Immigration Minister Jason Kenney visited a recruitment fair in Dublin and presented the IEC as offering opportunities for young people in Ireland to come and work in Canada.
- Youth can participate in IEC once for up to 24 months in either the Working Holiday or Young Professionals category; and for those who are eligible, an additional one-time participation for up to 12 months in the International Coop (Internship) category. The combined duration of your participations cannot be more than 36 months.
- The work permit issued under the Working Holiday category is valid for any type of job and there are no restrictions on the duration of the contract, the language, location, or on the total number of employers for whom an individual may work.
- The work permits issued under the Young Professionals and International Coop (Internship) categories are employer-specific according to the job offer.

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**DISCUSSION:**

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- As part of its February 2014 budget announcement, the federal government stated they would be introducing further program reforms for those workers exempt from the LMO process, such as those entering Canada under the IEC program. Though specifics of the proposed changes have not been shared, CIC staff will be discussing the program at a meeting with BC staff in the weeks ahead.

**CONCLUSION:**

- The IEC provides opportunity to experience international locations and open the door to future employment and business opportunities for youth.
- Potential amendments to the program

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**ATTACHMENTS:**

s13 s16

Contact: Keith Godin, A\Executive Director, Labour Market & Immigration Division  
Telephone: (250) 952-6567

Reviewed by				
Dir: SR	ED:	ADM:	DM:	MIN:

Pages 40 through 42 redacted for the following reasons:

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## ISSUE NOTE

### Issue:

- The federal government continues to reform the Temporary Foreign Worker (TFW) Program

### Background:

- The TFW Program is jointly administered by Citizenship and Immigration Canada (CIC) and Employment and Social Development Canada (ESDC).
- ESDC is responsible for issuing LMOs, through which the Department confirms that employers have made reasonable attempts to fill their vacancies domestically, while CIC is responsible for issuing work permits.
- In response to concerns with the TFW Program, the federal government has announced a number of program reforms aimed at ensuring that Canadians have the first chance at available jobs. Since April 2013 changes have included:
  - cancellation of the flexible wage structure, meaning employers must pay TFWs the prevailing wage in their region for the occupation. The flexible wage structure allowed for wages that were up to 15% below the average wage for an occupation in a specific region, if the employer could demonstrate that the wage was consistent with what Canadian workers were being paid;
  - suspension of the Accelerated LMO process that provided a turnaround of 10 business days for LMO processing to qualified employers;
  - increased authority for the federal government to suspend, revoke and refuse to process LMOs and to revoke work permits;
  - introduction of new processes to ensure that the TFW Program is not used to facilitate the outsourcing of Canadian jobs;
  - introduction of a requirement for employers to provide a plan showing how they will transition to a domestic workforce;
  - introduction of a \$275 fee for employers for each position included on an employer's LMO application;
  - English and French identified as the only languages that can be used as a job requirement on an LMO application (with some specified exceptions);



- enhanced authority for the federal government to verify employer compliance with TFW program requirements (such as efforts to hire Canadians) and to apply consequences for non-compliance; and
  - enhanced protections to ensure TFWs are not exposed to abuse, including physical, sexual, psychological, and financial abuse.
- More recently, as part of the February 2014 budget; the federal government announced its proposal to invest \$11.0M over two years and \$3.5M per year ongoing in the Temporary Foreign Worker (TFW) Program, specifically strengthening the Labour Market Opinion (LMO) process including:
  - realigning the application streams to better identify vulnerable TFWs and improve processing times for certain applications;
  - limiting the use of the program in high-unemployment regions s13  
s13
  - ensuring that employers transition to a Canadian workforce through better prevention, detection and response to employer non-compliance.

s13, s16, s17

- BC has particular strength in accurate and detailed labour market information. BC is continuing consultation with the federal government s13, s16, s17

- s13, s16, s17

#### Decision Required:

- 30 day issue - None

## ISSUE NOTE

### Issue:

- s13, s17 Temporary Foreign Workers (TFW)

### Background:

A number of issues have arisen surrounding the treatment and working conditions of TFWs across Canada including British Columbia. While issued focused on claims that TFWs are taking jobs away from Canadians they also included concerns in regards to the treatment, working and living conditions of TFWs and that they are inappropriately being charged recruitment fees.

To address TFWs concerns, other provinces have created employer registries including in 2009 Manitoba, 2013 Saskatchewan and Nova Scotia and in February 2014, Ontario tabled legislation which included a provision to enable the creation of an employer registry.

s13, s17

- In the winter and spring of 2013, BC considered s13, s17

s13, s17

s13, s16, s17

- BC has been researching and evaluating options for enhanced s13, s16  
s13, s16

- s13, s16 . Additionally, there may be an option to explore with the federal government, the possibility of s13, s16, s17

s13, s16, s17

s13, s16, s17

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**Decision required:**

- **30 days**

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING  
AND MINISTER RESPONSIBLE FOR LABOUR  
**INFORMATION NOTE**

Cliff #: 103865

Date: March 10, 2014

**PREPARED FOR:** David Byng, Deputy Minister, Ministry of Jobs, Tourism, and Innovation

**ISSUE:** Background information on immigration topics in preparation for FPT DM Call

**Temporary Foreign Workers Program (TFW)**

**Background**

- Since April 2013, the federal government has implemented TFW program reforms aimed at ensuring that Canadian citizens and permanent residents have the first chance at available jobs.
- Some statutory, regulatory and administrative changes to date include: suspending the Accelerated Labour Market Opinion process, introducing application process fees, restricting language requirements to official requirements, enhancing authority for the federal government to verify employer compliance with TFWP requirements and protecting TFWs from abuse, including physical, sexual, psychological, and financial abuse.

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s13, s16

**Key Messages**

- The Province supports the TFW reforms to ensure that Canadians and permanent residents are first in line for available jobs.

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s13, s16

**Settlement Services Transition**

**Background**

- In April 2012, the federal government informed B.C. of its decision to terminate the Settlement Annex of the Canada-BC Immigration Agreement (CBCIA)

beginning April 1, 2014 and repatriate the delivery of settlement services for B.C. immigrants.

- B.C. will have a limited role in settlement service after April 2014 with a narrow focus on underserved areas of provincial priority.

s13, s16, s17

### **Key Messages**

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s13, s16

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## **Renewal of Canada - BC Immigration Agreement (CBCIA)**

### **Background**

- Since 1998, B.C. has had immigration agreements with Canada that have provided a platform to co-operate on issues of shared interest, and established respective roles in managing immigration. The most recent CBCIA, signed in 2010, expires in April 2015.
- The CBCIA provides the legal and policy framework to design and execute immigration programs. It includes the authority to deliver a Provincial Nominee Program and implement pilot projects for temporary foreign workers – two critically important levers required for B.C. to support the LNG sector.
- CIC has indicated it intends to further harmonize immigration agreements with provinces and territories.

s13, s16, s17

s13, s16, s17

## Recent Federal Budget Announcements

### Background

- On February 11, 2014, the federal government made the following budget announcements:
  1. The investment of \$11.0M over two years and \$3.5M per year ongoing in the TFW Program, specifically strengthening the Labour Market Opinion (LMO) process to ensure Canadians are given the first chance at available jobs.”
  2. The provision of \$14.0M over two years and \$4.7M per year ongoing to CIC to support the successful implement of the Expression of Interest (EOI) economic immigration system.
  3. The termination of the federal Entrepreneur (EN) and Immigrant Investor Programs (IIP), including the elimination of the application backlog. The federal government proposes to replace the ineffective Immigrant Investor and Entrepreneur programs with a Business Skills pilot and an Immigrant Investor Venture Capital Fund pilot project and to undertake consultations on a potential programs.

s13, s16, s17

Reviewed by				
Dir: SR	ED: KG	A/ADM: KG	DM:	MIN:

## ADVICE TO MINISTER

### CONFIDENTIAL ISSUES NOTE

Ministry of Jobs, Tourism and Skills Training  
and Responsible for Labour

Date: April 25, 2014

Minister Responsible: Hon. Shirley Bond

## TFW Program and Concerns

### SUGGESTED RESPONSES:

- We believe that British Columbians should be first in line for jobs in our province, followed by Canadians and Temporary Foreign Workers as a last resort.
- The federal government's message is clear: No abuse of the TFW Program will be tolerated and they are investigating allegations of program abuse on an urgent basis.
- We support the federal government's serious criminal sanctions, including fines and jail time, if employers lie about their efforts to hire Canadians. If employers have broken the rules they will face serious consequences, including having Labour Market Opinions revoked, being named on a public blacklist, and losing their ability to hire foreign workers.
- We join the federal government in encouraging all Canadians with concerns or information to call the Employment and Social Development tip line: 1-800-367-5693 or to email: [integrity@servicecanada.gc.ca](mailto:integrity@servicecanada.gc.ca).
- British Columbia is looking at what other provinces are doing related to employers' TFW accountability as well as awaiting the results of the federal government's review of the program. We do not want to duplicate efforts while changes to the program are still happening.

Pages 52 through 57 redacted for the following reasons:

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s13, s16, s17