

What's Happening with LMIA's?

Alexandra Callinan, Partner & Lawyer

April 17, 2026



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You Have Just
Crossed Over Into...

THE
TWILIGHT
ZONE

The Big Picture: Immigration Levels (Caps), Political Climate, and the TFWP



Immigration Levels Plans & Political Climate

- Introduction of caps on Temporary Foreign Workers (TFWs) in the 2025-2027 Immigration Levels Plan
- Caps continued in the 2026-2028 Immigration Levels Plan
- Intention to reduce number of workers brought in/extended through the Temporary Foreign Worker Program requires the issuance of fewer Labour Market Impact Assessments (LMIAs) by Employment and Social Development Canada (ESDC)
- We are working in against a backdrop of changes to immigration policy and levels and growing anti-immigrant sentiment in the general population
- There are websites, maps, social media pages dedicated to tracking, naming & shaming employers, lawyers, and consultants that interact with the Temporary Foreign Worker Program

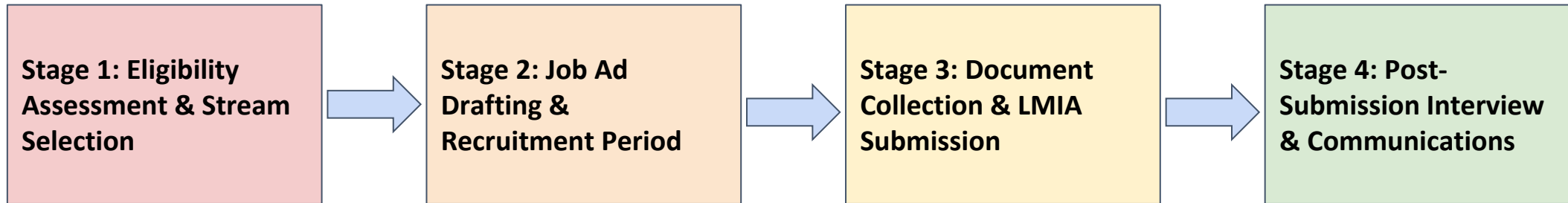


The Temporary Foreign Worker Program & Labour Market Impact Assessments

- The Temporary Foreign Worker Program (TFWP) *“allows Canadian employers to hire foreign workers to fill temporary jobs when qualified Canadians are not available.”*
- Under the TFWP *“Employment and Social Development Canada (ESDC), through its Service Canada processing centres, assesses applications from employers requesting permission to hire temporary foreign workers and conducts Labour Market Impact Assessments to determine the likely effect these workers would have on the Canadian labour market.”*
- If ESDC determines that the hiring of the TFW would have a positive or neutral effect on the labour market, an LMIA will be issued to the employer. If ESDC determines that the hiring of the TFW would have a negative impact on the labour market, the application will be refused.
- Employers looking to use the TFWP must also meet the specific program requirements associated with the stream/category of LMIA for which they are applying.



LMIA Applications: General Process



Eligibility & Pre-Recruitment Changes



Median Wage (Determination of High or Low Wage Stream)

- The “main” categories of LMIA are the High Wage and Low Wage streams
- An LMIA will be processed under the High Wage stream if the wage being offered is at or above the provincial median wage, and will be processed under the Low Wage stream if the wage is below the provincial median wage
- Effective November 8, 2024, the provincial median wage for the purposes of determining LMIA category was set to the provincial median wage + 20%



Median Wage (Determination of High or Low Wage Stream) - November 8, 2024

Starting November 8, 2024, the provincial and territorial wage threshold used to determine the application stream will be increased by 20%. Consult the [Wage threshold by province or territory](#) table below for details. **New**

If you're offering a wage to a temporary foreign worker (TFW) that's:

- **at or above** the provincial or territorial wage threshold, you must apply under the [stream for high-wage positions](#)
- **below** the provincial or territorial wage threshold, you must apply under the [stream for low-wage positions](#)

Wage threshold by province or territory

Province/territory	For LMIA's received before November 8, 2024	For LMIA's received as of November 8, 2024
Alberta	\$29.50	\$35.40
British Columbia	\$28.85	\$34.62
Manitoba	\$25.00	\$30.00
New Brunswick	\$24.04	\$28.85
Newfoundland and Labrador	\$26.00	\$31.20
Northwest Territories	\$39.24	\$47.09
Nova Scotia	\$24.00	\$28.80
Nunavut	\$35.00	\$42.00
Ontario	\$28.39	\$34.07
Prince Edward Island	\$24.00	\$28.80
Quebec	\$27.47	\$32.96
Saskatchewan	\$27.00	\$32.40



Median Wage (Determination of High or Low Wage Stream) - Current

Wage threshold by province or territory

Province/territory	For LMIA received before June 27, 2025	For LMIA received as of June 27, 2025
Alberta	\$35.40	\$36.00
British Columbia	\$34.62	\$36.60
Manitoba	\$30.00	\$30.16
New Brunswick	\$28.85	\$30.00
Newfoundland and Labrador	\$31.20	\$32.40
Northwest Territories	\$47.09	\$48.00
Nova Scotia	\$28.80	\$30.00
Nunavut	\$42.00	\$42.00
Ontario	\$34.07	\$36.00
Prince Edward Island	\$28.80	\$30.00
Quebec	\$32.96	\$34.62
Saskatchewan	\$32.40	\$33.60
Yukon	\$43.20	\$44.40



Refusal to Process - Ministerial Instructions and Exemptions

Based public policy considerations as determined in Ministerial instructions, Service Canada may refuse to process an LMIA application for:

- Positions above the cap on the proportion of low-wage positions
 - Cap of 10% of workforce can be low-wage positions
 - Exemption for some industries where cap is increased to 20%: construction, food manufacturing, hospitals, nursing and residential care facilities, some NOCs for in-home caregiver positions in a private household
 - As of April 1, 2026 there are temporary exemptions available for rural employers
- Low-wage positions in CMAs with an unemployment rate of 6% or higher
 - Effective September 26, 2024 applications submitted under the Low Wage stream in a Census Metropolitan Area where the unemployment rate is 6% or higher will not be processed
 - Exemptions: primary agriculture, onstruction, food manufacturing, hospitals, nursing and residential care facilities, some NOCs for in-home caregiver positions in a private household, PR stream LMIAs, short-duration positions (< 120 days)



Refusal to Process - Ministerial Instructions and Exemptions

Table: Unemployment rates by CMA and period

Census metropolitan area	Unemployment rate (%) for applications submitted from October 10, 2025, to January 8, 2026	Unemployment rate (%) for applications submitted from January 9, 2026, to April 9, 2026	Unemployment rate (%) for applications submitted from April 10, 2026, to July 9, 2026
<u>Montréal, Quebec</u>	6.7	5.5	6.8
Ottawa-Gatineau, Ontario/Quebec	7.7	6.8	6.2
<u>Kingston, Ontario</u>	6.6	5.6	6.2
<u>Belleville - Quinte West, Ontario</u>	6.6	10.6	7.9
<u>Peterborough, Ontario</u>	5.6	5.3	6.3
<u>Oshawa, Ontario</u>	9.5	8.0	7.5



Refusal to Process - Ministerial Instructions and Exemptions

Based public policy considerations as determined in Ministerial instructions, Service Canada may refuse to process an LMIA application for:

- In-home caregiver positions with live-in requirements
 - applies to private households
 - NOC codes 31301, 32101, 44100 or 44101
 - Exceptions for: high medical needs and some exceptional circumstances
- Employers who have had an application revoked in the past 2 years for having provided false, misleading or inaccurate information



Changes to the Recruitment Process & to Accepted Supporting Documents



Low Wage LMIA's

- As of April 1, 2026, employers submitting a Labour Market Impact Assessment (LMIA) application for low-wage positions must:
 - advertise the job offer for a minimum of **8 consecutive weeks** in the 3 months before submitting the application, and
 - target youth in recruitment efforts
- Previous requirement was to advertise for a minimum of 4 consecutive weeks and to target 2 or more underrepresented groups
- Always double check if a variation to the recruitment/advertisement requirement exists



Job Bank

- For LMIA's that require advertising, a universal program requirement is to advertise the position using Service Canada's Job Bank platform. There have been some updates to how this platform is used, including the following:
 - All Job Bank employer files must now include a business owner or director who is registered with the Canada Revenue Agency (name and email address must be listed in the Job Bank)
 - There used to be a publicly-listed phone number and email address that you could use to contact the national Job Bank, these have been shut down and replaced by a black hole (webform)
 - For Ontario-based job advertisements, you can call the Employment Ontario Contact Centre @ 1-800-387-5656 or 416-326-5656
 - Changes to employer files (such as adding a representative) have caused some files to become inactive/pending
 - Job advertisements on the Job Bank website now only run for 21 days
 - Some reports that the Job Bank is monitoring locations of users accessing an account and blocking profiles where login credentials are used in geographic locations



Direct Apply

- Direct Apply is a Job Bank feature that allows registered job seekers who are authorized to work in Canada to apply directly to Job Bank postings by submitting their resume (and cover letter if required)
- Direct Apply is mandatory and is enabled by default when a job is posted on the Job Bank
- By disabling it or not considering Direct Apply applicants, employers may be considered as not meeting the recruitment effort requirements
- All Direct Apply applicants will need to be screened and either accepted or rejected by the employer in order to extend a posting on the Job Bank website
- Direct Apply does allow TFWs in Canada to apply to job postings and when employers go to reject these applicants there is no option to indicate that these applicants are being screened out as they are not Canadian citizens or permanent residents.
- Direct Apply applicants must be screened up until the time the LMIA is issued



Attestations from Lawyers & Accountants No Longer Accepted

- Employers, regardless of stream, must demonstrate as part of their application that both the business and the job offer are legitimate
- ESDC assesses 4 factors with respect to business/job offer legitimacy and looks to confirm that the employer:
 - is providing a good or a service in Canada
 - is offering employment that's consistent with the reasonable needs of your business
 - can fulfill all of the terms of the job offer, including the wages for temporary foreign workers and other applicable financial obligations
 - has no compliance issues
- As of October 28, 2024, Employment and Social Development Canada (ESDC) no longer accepts attestations from lawyers or accountants to prove business legitimacy for Labour Market Impact Assessment (LMIA) application
- Attestations from financial institutions can still be used but these can be difficult to obtain depending on the bank/branch/branch manager



Changes to Post-Submission Interviews & Communications





**Raise your hand if you have ever been personally
victimized by ESDC**

Post-submission Interviews & Requests for Information

- Phone interviews are happening in most cases
- Officers are in many cases contacting the employer directly, without warning, and trying to have the interview on the spot (without counsel)
- These interviews can sometimes feel quite adversarial (brace yourself and the employer for a bad time)
- Lots of questions about recruitment and why certain candidates were not selected
- Some questions about the position requirements and justifications for the wage being offered
- Questions regarding information contained in the LMIA application itself
- Requests for additional documentation to justify requested employment duration (contracts, POs, etc.)



ESDC Senior Program Officer Case Notes - Redetermination Request

“The SPDO attempted to contact the employer and left a voicemail, then spoke with the lawyer representative. The lawyer strongly disagreed with the decision, questioned where the program rules prohibit overlapping shifts, and demanded to see a law or a specific line on the official website. They claimed the file should have been triaged earlier and requested a refund, a written explanation of the decision, and indicated they may pursue legal action if their concerns are not addressed.

During the conversation, the employer became emotional, expressed that caring for four children is overwhelming, and demanded clarification of “reasonable need” and program requirements regarding multiple caregivers. The employer also referenced a mandate to reduce workers, which the SPDO did not confirm. The SPDO recommended continuing efforts to recruit locally.”



LMIA Survival Guide



Tips for a (hopefully) Better LMIA Experience

1. Stay informed & connected
 - a. Check the links at the end of this presentation regularly
 - b. Join a listserv or create your own group chat with other lawyers who do this work
2. Set expectations with clients early & educate them on the process
 - a. Be candid about the process
 - b. Identify potential challenges to their application early on and prepare for them (or change strategy)
3. Recruitment-specific documentation
 - a. full-screen screenshots of advertisements (that show date and time) are your best friends
 - b. educate employers on best practices for screening
4. More is more (strategically)
 - a. ESDC does not provide a centralized document checklist or nicely-labelled slots at the end of the LMIA portal - develop your own
 - b. Go above and beyond the minimum requirements, try and anticipate the Officer's concerns
5. Challenge bad decisions
 - a. Reconsideration
 - b. Judicial Review



Hopefully Helpful Resources & Links



Resources & Links

1. Online map of approved LMIA's: <https://lmiamap.org/>
2. ESDC, Temporary Foreign Worker Program: <https://www.canada.ca/en/employment-social-development/programs/temporary-foreign-worker.html>
3. Provincial Median Wages: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage.html>
4. High Wage LMIA Program Requirements: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage/high.html>
5. Low Wage LMIA Program Requirements: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage/low.html>
6. Refusal to process a LMIA: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/refusal.html>
7. Temporary measures to support rural employers: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/temporary-measures.html>
8. Variations to minimum advertising requirements: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/variations.html>



Resources & Links

9. Job Bank - Contact us to request assistance:

<https://www.jobbank.gc.ca/support/contactform;jsessionid=B62BB6F5C46CD6654B494BF2279A1E4D.jobsearch75?mtid=142>

10. Business legitimacy: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/business-legitimacy.html>





mgl AVOCATS
LAWYERS

QUESTIONS?

alexandra@mgl lawyers.ca
www.mgl lawyers.ca