

Global Immigration alert

August 2024

Canada

Canada announces further restrictions on temporary foreign worker hiring

Executive summary

On 26 August 2024, in an announcement from Prime Minister Justin Trudeau and the Minister responsible for the Temporary Foreign Worker Program (TFWP), the Honourable Randy Boissonnault, the Canadian government declared that it will impose further restrictions on the segment of the TFWP that is used for hiring of so-called “low-wage” workers. The intended goal of this program change is to reduce Canadian employers’ reliance on foreign national temporary workers, as well as to reduce fraud and misuse of the low-wage TFWP. Nevertheless, there will be some exemptions from these new restrictions, namely jobs in the food security sectors (primary agriculture, food and fish processing), as well as in the construction and healthcare sectors.

The government had previously eased restrictions to address the acute labor shortage that followed the COVID-19 pandemic, a move that resulted in a significant rise in the employment of low-wage temporary workers.

As background, the TFWP requires employers to test the Canadian labor market to ensure that there are no eligible Canadian citizens or Permanent Residents who can perform the role at the required prevailing wage rate. A successful labor market test results in a positive Labour Market Impact Analysis (LMIA). The low wage segment of TFWP has unique requirements associated with it and is applicable to occupations whose prevailing wage rate is below the median hourly wage for all jobs in a province. It is important to note that many work permits are obtained outside of the TFWP and this new restriction does not impact those.

Key developments

In light of the evolving and current employment environment in Canada, the following measures will take effect as of 26 September 2024:

- ▶ The Government of Canada will not process applications for LMIsAs in the Low-Wage stream for census metropolitan areas where the unemployment rate is 6% or higher. However, there will be exceptions for both seasonal and year-round positions in sectors critical to food security, such as primary agriculture, food processing, and fish processing, as well as for roles in the construction and healthcare sectors.
- ▶ Employers will be restricted to employing a maximum of 10% of their workforce through the TFWP in the Low-Wage stream. This cap represents a further reduction from the one implemented in March 2024. Exceptions to this cap will apply to seasonal and year-round positions in essential food security sectors (primary agriculture, food processing, and fish processing), along with healthcare and construction industries.
- ▶ The maximum employment period for workers recruited via the Low-Wage stream will be shortened to one year, a decrease from the previous two-year limit.

Key steps

The Canadian government has stated that it will continue to monitor the domestic labor market and make any necessary adjustments to the TFWP in the upcoming months. A comprehensive review of the Program is scheduled to start in the next 90 days. This review may also lead to modifications

in the High-Wage Stream, reassessment of existing LMIA applications with unfilled positions, changes to sector-specific exemptions, or a halt in processing certain LMIA applications, including those from rural communities.

EY Law will continue to monitor any changes and will provide updates as they are announced. In the meantime, please reach out to an EY Law immigration professional should you have any questions or would like to further discuss these changes.

EY | Building a better working world

EY exists to build a better working world, helping create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

Follow up on Twitter @EYCanada

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

About EY Law LLP

EY Law LLP is a Canadian law firm, affiliated with Ernst & Young LLP in Canada. Both EY Law LLP and Ernst & Young LLP are Ontario limited liability partnerships. EY Law LLP has no association or relationship with Ernst & Young LLP in the US, or any of its members. Ernst & Young LLP in the US does not practice law, nor does it provide immigration or legal services. For more information, please visit EYLaw.ca.

© 2024 Ernst & Young LLP.

All Rights Reserved.

A member firm of Ernst & Young Global Limited.

EYG no. 007357-24Gbl

This publication contains information in summary form, current as of the date of publication, and is intended for general guidance only. It should not be regarded as comprehensive or a substitute for professional advice. Before taking any particular course of action, contact EY or another professional advisor to discuss these matters in the context of your particular circumstances. We accept no responsibility for any loss or damage occasioned by your reliance on information contained in this publication.

ey.com/en_ca

Batia Stein, Managing Partner
+1 416 943 3593
batia.j.stein@ca.ey.com

Melanie Bradshaw, Partner
+1 416 943 5411
melanie.bradshaw@ca.ey.com

Roxanne Israel, Partner
+1 403 206 5086
roxanne.n.israel@ca.ey.com

Marwah Serag, Partner
+1 416 943 2944
marwah.serag@ca.ey.com

Author:
Zainab Jamal, Manager
+1 416 943 5622
zainab.jamal@ca.ey.com

Alex Israel, Partner
+1 416 943 2698
alex.d.israel@ca.ey.com

Christopher Gordon, Partner
+1 416 943 2544
christopher.d.gordon@ca.ey.com

Nadia Allibhai, Partner
+1 613 598 4866
nadia.allibhai@ca.ey.com

Jonathan Leebosh, Partner
+1 604 899 3560
jonathan.e.leebosh@ca.ey.com

Stephanie Lipstein, Partner
+1 514 874 4610
stephanie.lipstein@ca.ey.com