

Important Information About Your Labour Market Impact Assessment (LMIA) Approval

This notice includes important information about your LMIA approval. Please store this notice, as well as the LMIA approval, in a safe place for future reference.

Record Keeping, Compliance and Inspections

Employment and Social Development Canada (ESDC) now has the ability to conduct employer compliance reviews and inspections to ensure adherence to the terms and conditions outlined in the attached LMIA approval. ESDC has the ability to compel the production of any document, including payroll information, bank information employment records and other information, deemed necessary to prove compliance with your LMIA. On-site inspections may be conducted without a warrant and may include staff interviews. Any violations of other statutes or regulations, including employment standards, and occupational health and safety, identified by the inspector may be shared with other regulatory authorities.

You are required to retain *any document pertaining to your LMIA application, approval and subsequent work permits issued*. These documents must be retained for a period of **six (6) years**, starting on the first day of employment for any foreign national hired pursuant to this LMIA.

Documents you must retain include (but are not limited to):

- Proof of recruiting efforts, including any resumes received
- Employment records
- Payroll records
- Timesheets
- Insurance information
- Any document that supports statements or claims made during the LMIA application
- Documentation of efforts to complete your transition plan (if applicable)

Changes in Working Conditions

The attached LMIA approval is for the occupation listed above. Any foreign national employed pursuant to this LMIA must be employed in the occupation for which this approval was given. In addition, you are required to adhere to any working conditions, including offer of salary and benefits, detailed in the job offer.

ESDC uses a “Substantially-the-Same” standard when assessing compliance with the terms of your LMIA approval and job offer. This means that job duties, salary, benefits and other working conditions must be substantially the same as those outlined in the attached approval and any document provided to ESDC to support your LMIA application.

ESDC must be notified of any changes to working conditions including, but not limited to, changes to salary, benefit structure, bonus, work location, promotion/demotion or termination, and changes in job duties. Please note that changes in job duties may require a new LMIA.

Penalties for Non-Compliance

ESDC is aggressively investigating allegations of non-compliance. You are required to provide accurate information during the course of your application for an LMIA, and you are required to adhere to the terms and conditions outlined in any approval.

During the course of any compliance review, processing of any new LMIAs may be suspended. If you are found to be non-compliant, your current LMIAs may be revoked and you may be barred from hiring foreign nationals in the future. In addition, non-compliant employers will have their names published on an “ineligible employers list” online. This list will detail the nature of non-compliance as well as any penalty imposed. Under current rules, this list exists in perpetuity and once listed, there is no mechanism by which employers may seek to be removed from it.

On December 1, 2015, a new regime of Administrative Monetary Penalties (AMPs) will come into force. AMPs are a commonly used regulatory tool that permits a regulatory body to impose monetary penalties for incidences of non-compliance without the benefit of a proceeding. Penalties range from \$500 to \$100,000 per violation, and are cumulative up to a maximum of \$1,000,000. The size of the penalty assessed will depend on a number of factors, including the size of the employer, previous incidences of non-compliance, and the degree to which the employer benefited from the violation.

Your Transition Plan

If your LMIA application included a transition plan, any compliance or inspection will include a review of your success in implementing your plan. Please be advised that failure to complete your transition plan is a violation of the terms and conditions of your LMIA.

Ensure that you properly document any and all efforts to implement your plan and that you retain these records for a period of six (6) years.

If your transition plan included a commitment to supporting your employee in their application for Permanent Residence, please be advised that the new Express Entry system gives priority to applicants who have job offers supported by an LMIA. In order to benefit from the attached LMIA, work should begin immediately on your employee’s application.

ESDC must be notified of any changes to your transition plan, including any inability to implement your plan. This includes notifying ESDC of any decision by your employee not to pursue an application for Permanent Residence, if supporting such an application was included in your plan.