

Human Resources Policies & Guidelines

Section: 2 Staffing

Subsection: 2.3.3 **ELIGIBILITY TO WORK IN CANADA**

Type: Policy

Effective Date: November 12, 2009

POLICY STATEMENT

Only persons legally entitled to work in Canada may be appointed to positions in the Manitoba civil service. Recruitment outside Canada can be done under certain conditions.

INTENT

It is illegal to hire [temporary residents](#) who are authorized by Citizenship and Immigration Canada (CIC) to work only for another employer, or who do not have authorization to work in Canada as provided under the [Immigration and Refugee Protection Act and Regulation](#).

POLICY APPLICATION

Canadian citizens, [permanent residents](#) and temporary residents under certain conditions can legally work in Canada.

To recruit outside Canada, the following process must be undertaken:

1. Ensure that sufficient effort has been made to recruit qualified candidates legally entitled to work in Canada and steps to train or upgrade candidates legally entitled to work in Canada have been taken. The job opportunity should be posted on the Canada Job Bank.
2. Register with the Employment Standards Branch, Manitoba Labour and Immigration (LIM). This is a requirement of Manitoba's Worker Recruitment and Protection Act, which protects foreign workers.
3. Apply for a Labour Market Opinion (LMO) from Service Canada (SC). A labour market opinion is an authorization issued to an employer by Human Resources and Skills Development Canada (HRSDC) to employ a foreign national to a job that a Canadian citizen or a permanent resident should be occupying. Depending on the job, the requirement for a LMO may be waived.

The original certificate of registration issued by the Employment Standards Branch (LIM) should be included with your LMO application.
4. Once you have received a positive LMO, proceed to recruit candidate(s) who meet your requirements for the position. If you decide to use the services of a recruiter to locate international workers, ensure the recruiter is a valid

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license holder through the Employment Standards Branch (LIM).
Recruitment fees cannot be charged to the worker by either the recruiter or the employing body.

5. Have the successful foreign national candidate(s) apply for a [work permit](#) to CIC. Provide a copy of the LMO confirmation letter and a signed job offer to the successful candidate(s) for addition to their work permit application. The letter of offer should include approval for eligibility to work as a condition of employment.
6. Notify the Employment Standards Branch (LIM) when your temporary foreign worker arrives. Under the Employment Standards Code and Workplace Safety and Health Act, temporary foreign workers have the same rights and responsibilities as other employees in the workplace.

ROLES AND RESPONSIBILITIES

Civil Service Commission

- Monitor application of the policy through the staffing audit process.

Human Resource Practitioners

- Ensures a candidate is legally entitled to work in Canada.
- Make an offer of employment conditional upon evidence of eligibility to work in Canada.

Department

- The Department employing authority is responsible for registering with the Employment Standards Branch (LIM) and for applying for a LMO with SC when recruiting outside Canada.
- If there are doubts concerning an applicant's eligibility, the employing authority should refer the case to CIC.

OTHER RESOURCES

[Immigration and Refugee Protection Act](#)

[Immigration and Refugee Protection Regulations](#)

[The Worker Recruitment and Protection Act](#)

Citizenship and Immigration Canada

Citizenship and Immigration Canada
Prairie/NWT Region
Johnston Terminal
Room 400 – 25 Forks Market Road
Winnipeg, MB R3C 4S9
Manitoba Toll Free: 1-888-776-8584

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Website: <http://www.cic.gc.ca>

Employment Standards Branch (LIM)

Manitoba Labour and Immigration
Employment Standards Branch
401 York Avenue
Winnipeg, MB R3C 0P8
Phone: (204) 945-3352
Website: <http://www.gov.mb.ca/labour/standards/>

Immigration Promotion and Recruitment Branch (LIM)

Manitoba Labour and Immigration
Citizenship and Multiculturalism Division
5th Floor, 213 Notre Dame Avenue
Winnipeg, MB R3B 1N3
Phone: (204) 945-2802

Service Canada

Service Canada
Toll-Free: 1-800-O-Canada (1 800 622-6232)
For in-person contact, visit one of the [Manitoba office locations](#).

ADDITIONAL REFERENCES / DEFINITIONS

Work permit – a document issued by an immigration officer authorizing a temporary resident of Canada to work for a specific Canadian employer for a specified period of time.

Permanent resident – a person who:

- Has been granted right of landing (i.e. lawful permission to come to Canada to establish permanent residence). A permanent resident will have a Record of Landing (IMM 100) if they became a resident before June 28, 2002; or a Confirmation of Permanent Residence (IMM 5292 or IMM 5509) if they became a permanent resident on or after June 28, 2002. Permanent residents may also hold a Permanent Resident Card which acts as proof of residence status.
- Is not a Canadian citizen;
- continues to maintain residency in Canada;
- has no deportation order currently in effect.

Temporary resident – a foreign national that is authorized by CIC to remain in Canada for a specific period of time and for a specific purpose.

AUTHORITY

The Civil Service Act, Section [13\(1\)\(2\)](#)

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Civil Service Regulation [9\(3\)](#)

The Manitoba Human Rights Code [13\(1\)](#), [14\(1\)\(2\)](#)

Civil Service Commission Minute CSC 14-09/10-12

FREQUENTLY ASKED QUESTIONS

1. How does an employer verify that a candidate is a permanent resident?

An employer can verify that a candidate is a permanent resident by requesting and looking at the candidate(s):

- Permanent Resident Card
- Right of Landing paper – IMM 100 or Confirmation of Permanent Residence (IMM 5292 or 5509)
- Social Insurance Number card – if a candidate(s) Social Insurance Number begins with a “9”, the person is not a permanent resident but rather a temporary resident

2. Which temporary residents can be appointed to term positions in the Manitoba civil service?

Under certain conditions, the following temporary residents may be appointed to term full-time or part-time positions in the Manitoba civil service:

1. Foreign students with a valid student permit issued by CIC and who can obtain a work permit by virtue of federal programs such as:
 - a. [Off-Campus Work Permit Program](#)
 - b. Working under the [co-op and internship programs](#)
 - c. [Post graduation work program](#)
2. Foreign workers with a valid work permit issued by CIC by virtue of the federal government [Temporary Foreign Worker Program](#).
3. Spouses or common law partners of foreign nationals with a valid study permit or work permit (or who can obtain a work permit).
4. Foreign nationals whose jobs fall under the category of jobs exempt from a work permit, in relation to international agreements, such as the North American Free Trade Agreement (NAFTA) or the General Agreement on Trade in Services (GATS), and government policy.

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The Social Insurance Number of these individuals usually begins with “9”. They are authorized to stay in Canada for a specific period of time.

Owner:	Civil Service Commission
Additional information:	Civil Service Commission Phone: 204-945-2332 Email: csc@gov.mb.ca
