

Foreign Worker Recruitment Licence Information

By April 1, 2009, anyone engaged in foreign worker recruitment in Manitoba is required to have a licence from the Employment Standards Branch. This requirement results from the new *Worker Recruitment and Protection Act*, which increases protections for foreign workers. This page highlights the legislative criteria that recruiters must meet to get a licence; and the obligations for foreign worker recruitment in Manitoba.

What constitutes foreign worker recruitment?

Anyone who assists a foreign worker in seeking or finding a job in Manitoba, or assists an employer in seeking or finding a foreign worker for a job in Manitoba, is engaging in foreign worker recruitment. It does not matter whether or not a fee is charged.

Who needs a licence to engage in foreign worker recruitment?

Foreign worker recruiters must have a licence from the Employment Standards Branch before they can recruit foreign workers. The offence of recruiting without a licence is subject to fines as high as \$25,000.00 – \$50,000.00. The employer hiring the worker is also liable so their recruitment registration will be cancelled.

The following do not need a licence:

- an agency of the government or a municipality
- a person who finds employees for their employer
- a person who receives no fee to find employment for their family member

How do I apply for a Foreign Worker Recruitment Licence?

An application form can be found on the web site at www.manitoba.ca/labour/standards/forms.html or by contacting the Employment Standards Branch. The application is designed to gather substantial business detail and character background. The completed form can be taken, mailed, or faxed to the Employment Standards Branch office.

Are there restrictions on who can apply for a foreign worker recruitment licence?

No, but consideration will only be given to a person who is a member in good standing of a provincial or territorial bar association, the Chambre des notaries du Québec, or the Immigration Consultants of Canada Regulatory Council.

How much does a foreign worker recruitment licence cost?

The application fee is \$100.00. The licence has an expiry date and must be renewed annually before it expires.

Are there any other fees?

Yes. Applicants who are approved for a licence must provide an irrevocable letter of credit in the amount of \$10,000.00, before they can receive the licence. Should it be found that a worker was charged by a licensee, this money will be used to return the illegal fees to the worker.

When can I begin recruiting foreign workers?

A recruiter may begin once their licence is received. An employer may begin once they receive notice of registration.

What factors will Employment Standards consider in reviewing the application?

To approve an application, Employment Standards must be satisfied that the applicant meets the qualifications of the legislation. The applicant's past conduct will also be reviewed to assess whether they will behave lawfully, honestly and in the public interest while carrying out the business of the license or registration.

Can fees be charged to a worker?

No. Neither a recruiter nor an employer can ever charge or collect a fee (directly or indirectly) from the worker.

Can a recruiter charge a worker for services/things that are not related to the recruitment process?

No. A licensee can never receive any money (directly or indirectly), or any other benefit, from a worker they assist with employment.

Can employers charge fees to the worker?

No, employers cannot charge workers or recoup recruitment costs.

What fees can be charged by a lawyer, consultant, or other person offering immigration advice or assistance?

The *Worker Recruitment and Protection Act* does not regulate the business of immigration assistance. What the Act does regulate is the business of Employment Agencies and foreign worker recruitment.

Who pays the fees associated with immigration assistance?

Foreign workers coming to Manitoba under employer directed recruitment are given all necessary application forms and help directly by either Citizenship and Immigration Canada or the Manitoba Provincial Nominee Program.

If further help is required, the worker is responsible for choosing the services. Services cannot be provided by a person that is linked (directly or indirectly) to the recruitment activity.

Can a person providing immigration advice or assistance help clients find a job?

No. A licensee can never receive any money (directly or indirectly), or any other benefit, from a worker they assist with employment. Therefore, it would contravene the Act to collect a fee from that same worker for immigration assistance. Clients looking for help finding a job may be referred to the National Job Bank website: www.jobbank.gc.ca

How are workers protected from being charged fees?

The Employment Standards Branch will conduct inspections and investigations to ensure fees are not connected to seeking or finding work.

If it is discovered a worker is charged, either the recruiter or the employer will be ordered to repay the fees. In addition to repayment, if the recruiter was involved they will lose their licence and be subject to fines as high as \$25,000.00 – \$50,000.00. Directors and officers of a corporation will also be subject to a \$25,000.00 fine. If an employer is involved, their recruitment registration will be cancelled.

How many people does the licence cover?

A licence to recruit foreign workers is an individual licence that applies only to the applicant. It is not transferable.

What records must I keep as a licensee engaged in foreign worker recruitment?

Complete and accurate financial operations records must be kept for at least three years, as well as records that show:

- a list of each person the licensee assisted to find workers
- a list of each worker the licensee assisted with employment
- a copy of the Labour Market Opinion, and contract/agreements entered into related to each foreign worker

How do I renew my Licence?

A renewal application form can be found on the web site at www.manitoba.ca/labour/standards/forms.html or by contacting the Employment Standards Branch. **This renewal application can be used only if there have been NO CHANGES to any of the information provided in the last approved application form.** The completed renewal form can be taken, mailed, or faxed to the Employment Standards Branch office.

Can I appeal?

Applicants can appeal a refusal, cancelation or suspension related to a licence or registration under the Worker Recruitment and Protection Act to the Court of Queen's Bench. Applicants who wish to appeal must file a Notice of Application (form 14B at the Statutory Publications Office) with the court within 14 days of receiving the decision.

Along with the decision, Employment Standards will provide the applicant with complete information about appealing a decision, and will answer any questions.

Is the information provided on the application confidential?

In order to verify information provided in the licence application, and investigate the character, financial history and competence of an applicant, Employment Standards may ask for permission to collect or disclose information with government officials, law enforcement agencies, and other regulators, for the purposes of evaluating the applicant for licensing, and ensuring the conditions of the licence are met.

For more information contact Employment Standards:

Phone: 204-945-3352; or toll free in Canada 1-800-821-4307

Fax: 204-948-3046

E-mail: employmentstandards@gov.mb.ca

Website: www.manitoba.ca/labour/standards

This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including *The Employment Standards Code* and *The Worker Recruitment and Protection Act*, or contact Employment Standards to ask for advice.

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