

## **Frequently Asked Questions 1000 – 1099**

### **Can employers charge fees to the worker?**

No. Employers cannot charge or recover recruitment costs from workers.

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

The *Worker Recruitment and Protection Act* regulates the business of employment agencies and foreign worker recruitment and the associated fees, but does not regulate the business of immigration assistance. However, licensees cannot charge foreign workers for immigration assistance *and* be involved in the recruitment process. This would contravene the Act, which prohibits a licensee from charging fees, either directly or indirectly, from foreign workers.

### **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, either directly or indirectly, to the recruitment activity.

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

Because licensees can never receive any money (directly or indirectly) or any other benefit from a worker they assist with employment, 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](http://www.jobbank.gc.ca)

## **How are workers protected from being charged fees?**

Employment Standards conducts inspections and investigations to ensure employees are not being charged fees.

In situations where an employee has been charged a fee, it will be ordered to be repaid. The licence could also be revoked and the licence holder could be subject to fines as high as \$25,000 – \$50,000. Directors and officers of a corporation will also be subject to a \$25,000 fine.

## **How many people does the licence cover?**

A licence to recruit foreign workers is not transferable and applies only to the applicant.

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

Complete and accurate financial records of operations 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 Impact Assessment
- A copy of any contracts/agreements entered into related to each foreign worker

## **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.

## **How much does a foreign worker recruitment licence cost?**

There is an application fee of \$100. The licence is valid for one year and must be renewed annually before it expires.

## **What is the process for employer registration?**

Employer Registration Forms can be downloaded from the Employment Standards website. Employers are required to provide information about their company and the types of positions for which they are recruiting. They also need to provide information about any third-party agencies and all individuals who will be involved in the recruitment process.

The immigration application of the foreign worker will not proceed until the employer hiring them is registered with Employment Standards.

## **What if I already have a positive Labour Market Opinion from Service Canada?**

Employers should proceed with the current recruiting process until April 1, 2009. At that time, employers will have to register for any foreign recruitment activities that are not already authorized through existing Labour Market Opinions.

## **How much does registration cost and when does an employer need to register?**

There is no fee for employer registration. Employers must register with Employment Standards before applying for a Labour Market Impact Assessment from the Government of Canada or making a job offer as part of the Manitoba Provincial Nominee Program application process.

## **Can a third party be used to recruit foreign workers?**

Foreign workers can only be recruited by a third party who is licensed by Employment Standards or falls under an exemption. The offence of recruiting without a licence is subject to fines as high as \$25,000 – \$50,000. The employer hiring the worker will also be held liable, resulting in their recruitment registration being 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

## Who pays the fees associated with recruiting foreign workers?

Employers are responsible for paying any recruitment fees. *The Worker Recruitment and Protection Act* strictly prohibits charging fees to workers.

## What is the process for recruiting foreign workers?

For more information about recruiting foreign workers, please visit the Immigration and Multiculturalism Division's website at <http://www.immigratemanitoba.com/> or the [Government of Canada's Temporary Foreign Worker Program](#) website.

## For more information contact the Employer Registration Unit:

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

Fax: 204-948-2882

E-mail: [employmentstandards@gov.mb.ca](mailto:employmentstandards@gov.mb.ca)

Website: [www.maitoba.ca/labour/standards](http://www.maitoba.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 Worker Recruitment and Protection Act*, or contact the Employment Standards Branch to ask for advice.

## Employment Agency Business Licence

By April 1, 2009, employment agency businesses in Manitoba must renew their licence under the new *Worker Recruitment and Protection Act*.

The annual fee for a licence is \$100.00. The licence, unless suspended or cancelled is valid for one year from the day it is used. In addition you are no longer required to hold a licence if you are:

- an agency of the government or a municipality
- a person who finds employees for their employer

This Licence does not cover companies and individuals that recruit internationally. Anyone who recruits foreign workers must have an additional, individual licence, before they recruit a foreign worker to Manitoba. More information about foreign worker recruitment can be found on the [Foreign Worker Recruitment](#) page.

## Employer Registration

Starting on April 1, 2009, all Manitoba employers wanting to recruit foreign workers will first be required to register with the Employment Standards Branch, Business Registration Unit. The immigration application of a foreign worker will not proceed unless the employer hiring them is registered.

When registering, employers will be required to provide information about their company, the types of positions they are recruiting, and information about any third parties that will be involved in the recruitment process. Any third party used to recruit must be licensed as a foreign worker recruiter by the Employment Standards Branch or exempt from the legislation.

Employers are responsible for paying any recruitment fees. More information about employer registration can be found on the [Employer Registration Information](#) page.

## Foreign Worker Recruitment Licence

As of April 1, 2009, anyone engaged in foreign worker recruitment in Manitoba is required to have a licence from the Employment Standards Branch. The offence of recruiting without a licence is subject to fines as high as \$50,000.00.

Licensees must be either a member in good standing of a provincial or territorial bar association, the Chambre des notaires du Québec, or the Immigration Consultants of Canada Regulatory Council. The fee for a licence is \$100.00. The licence has an expiry date and must be renewed annually before it expires.

The following do not need a licence to recruit internationally:

- 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

More information about the foreign worker recruitment license can be found on the [Foreign Worker Recruitment License](#) page.

## Increased Protection for Foreign Workers

Neither a recruiter nor an employer can ever charge or collect a fee (directly or indirectly) from a foreign worker. 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 \$50,000.00. If an employer is involved, their recruitment registration will be cancelled.

## Child Performer Permits

As of April 1, 2009, all children promoted by a talent or modeling agency must have Child Performer Permit from

the Employment Standards Branch. There is no fee for a Child Performer Permit.

Permits are given one time per child, per agency and are valid as long as the child works with that agency (or until the child turns 17). If the agency changes, the child and the new agency need a new permit. More information about Child Performer Permits can be found on the [Child Performers Permit](#) page.

## **Code of Conduct for Working with Child Performers**

A code of conduct was developed by the Canadian Centre for Child Protection and law enforcement officials who are experts in issues related to the exploitation of children. It outlines the shared responsibility between parents/guardians and agencies that work with child performers to protect children. It also requires parents/guardians to be present at the job location or readily available to their children when they are working as performers. Anyone seeking a licence to work with child performers will be required to follow the code of conduct.

If a person or business contravenes the legislation or the code of conduct, Employment Standards will suspend or revoke a licence or permit, and take whatever action is necessary to protect the child's interest.

More information about the code of conduct and the responsibilities of parents/guardians can be found on the [Guide for Parents/Guardians of Child Performers](#) page.

## **Talent Agency Licence**

As of April 1, 2009, all businesses engaged in promoting child performers are required to have a licence from the Employment Standards Branch. Each child that will be promoted also requires a Child Performer Permit. The offence of operating without a licence or contravening the legislation is subject to fines as high as \$50,000.00.

The application fee is \$100.00. The licence has an expiry date and must be renewed annually before it expires. Consideration for this licence will only be given to legitimate businesses that Employment Standards believes will operate with professionalism and have measures in place to ensure the safety and well-being of the children with whom they work.

No fees may be charged to a child performer, or a family member on his or her behalf, related (directly or indirectly) to seeking or finding work. More information about child talent agency licence can be found on the [Child Talent Agency Licence](#) page.

## **Child Performer Recruitment Licence**

As of April 1, 2009, all businesses engaged in child performer recruitment must have a licence from the Employment Standards Branch before they can audition, scout or recruit a child performer. The offence of operating without a licence or contravening the legislation is subject to fines as high as \$50,000.00.

The application fee is \$100.00. The licence has an expiry date and must be renewed annually before it expires. Consideration for this licence will only be given to legitimate businesses that Employment Standards believes will operate with professionalism and have measures in place to ensure the safety and well-being of the children with whom they work.

In addition to obtaining a licence to engage in child performer recruitment, a recruiter must provide specific information to the Employment Standards Branch, at least two weeks before advertising to audition, scout or

recruit in Manitoba. More information about child performer recruitment can be found on the [Child Performer Recruitment Licence](#) page.

## **Licence Registry**

The names of all individuals or businesses holding a valid licence from Employment Standards will be accessible to the public. Names will be posted on the Employment Standards website at [www.manitoba.ca/labour/standards](http://www.manitoba.ca/labour/standards). If they are not on the list, they are not licensed. You can also contact the Employment Standards Branch for this information.

## **What if an employer does not register before recruiting internationally?**

Employers who submit a Labour Market Impact Assessment application to the federal government without supplying a Certificate of Registration will be referred back to Employment Standards for registration. The offence of recruiting without registering is subject to fines as high as \$25,000 – \$50,000.

## **Can the terms and conditions of a foreign worker's job be changed?**

Foreign workers, including workers with temporary status, have the same rights as all other workers in Manitoba.

Foreign workers are further protected by the conditions upon which they were allowed to work in Manitoba. This means employers cannot reduce the terms and conditions of the employment contract or Labour Market Impact Assessment, even if the worker agrees. Employment Standards will enforce the negotiated rate of pay and benefits as the minimum standards.

## **If an employer hires a temporary foreign worker and needs to lay them off, what happens?**

If an employer lays off a temporary foreign worker, it is necessary to contact Employment Standards to discuss what steps should be taken to inform and support the worker. Employment Skills Development Canada and Citizenship and Immigration Canada must also be notified.

## **What if there is no job when the foreign worker arrives?**

Employers are required to immediately report any changes to Employment Standards. Employers are responsible for paying any benefits promised during the recruitment process such as transportation costs to and from Manitoba. Employment Skills Development Canada and Citizenship and Immigration Canada must also be notified.

## **What records must an employer keep when recruiting a foreign worker?**

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

- The workers name, address, and telephone number, job title, and the location where they do most of their work
- Expenses incurred (directly or indirectly) by the employer, or an employee of the employer, during a recruiting process
- A copy of the Labour Market Impact Assessment and all contract/agreements entered into with foreign workers and recruiters

## **How do employers protect themselves from unscrupulous recruiters when recruiting foreign workers?**

- If you are contacted by someone offering to find foreign workers for your business or if you are considering hiring a recruiter, check under WRAPA Valid Licence Holders at [www.manitoba.ca/labour/standards](http://www.manitoba.ca/labour/standards) to make sure the person is licensed.
- If you are contacted by a foreign worker seeking a job, ensure there is not an unlicensed recruiter involved.
- Be aware it contravenes the Act for an Immigration lawyer or consultant to charge a worker a fee and then seek or find them employment.
- If you are solicited by an unlicensed recruiter, report it to Employment Standards.

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