



## Amendments to Canada's Immigration and Refugee Protection Regulations

The Immigration and Refugee Protection Regulations of Canada (IRPR) was amended effective 31 December 2013 to strengthen the integrity of Canada's Temporary Foreign Worker Program (TFWP).

Following the changes, employers intending to apply for a Labour Market Opinion (LMO) need to be aware of the new powers and duties conferred on the Minister of Employment and Social Development Canada (ESDC) under the amendments.

The following are the conditions/ restrictions on the application and approval of LMO:

**1. The ESDC will not have the authority to provide an LMO to an employer or a group of employers who, on a regular basis, offer striptease, erotic dance, escort services or erotic massages**

- The purpose of this decision is to protect foreign workers from the risk of abuse and exploitation
- No LMO fee will be charged for applications not processed.

**2. The amendments to the IRPR will create new conditions that employers will be required to comply with, particularly:**

- Retain any document that relates to compliance with the conditions set out in the IRPR (and confirmed in the LMO letter and annexes) for a period of 6 years, beginning on the first day of the period of employment for which the work permit is issued to the foreign workers. For this same period, the employer must be able to demonstrate that any information they provided in the context of an LMO application is accurate;
- Make reasonable efforts to provide a work place that is free of abuse; and
- Hire or train, or make reasonable efforts to hire or train, Canadians or permanent residents, if that was one of the factors that led to the issuance of the work permit.

Since 31 December 2013, employers are now required to complete an updated LMO application form that includes modified questions and additional attestations.





## Amendments to Canada's Immigration and Refugee Protection Regulations

### 3. New authority to conduct inspections

ESDC/Service Canada will have the authority to conduct inspections to verify an employer's compliance with the conditions in the IRPR (and confirmed in the LMO letter and annexes) for a period of 6 years, beginning on the first day of the period of employment for which the work permit is issued to the foreign worker (unlike an Employer Compliance Review (ECR) that occurs in the contract of the assessment of an LMO application).

During an inspection, employers will be required to demonstrate that they are compliant with the conditions set out in the IRPR (and confirmed in the positive LMO letter and annexes). In order to verify compliance with the conditions, ESDC/Service Canada will have the authority to:

- Require employers to provide documents that relate to compliance with those conditions;
- Conduct on-site inspections without a warrant (private dwellings excluded and in the majority of cases, advance notice will be given to employers); and
- Interview foreign workers or Canadian employees, by consent.

Employers who failed to comply with the conditions set out in the IRPR (and confirmed LMO letter and annexes) will have the opportunity to provide a justification and take corrective action, where applicable, before a determination of non-compliance is made.

Following a determination of non-compliance, employers will:

- Be deemed ineligible to hire foreign workers for two (2) years, and have their name, address and period of ineligibility published on a public ban list;
- Be issued negative LMOs on any pending LMO applications; and/or
- May have previously-issued LMOs revoked

Note: Changes to the ECRs, which are conducted as part of the LMO assessment at the time of an LMO application, have also been made, including the increased period of time that ESDC may review an employer's compliance (regarding wages, working conditions and occupation) from 2 to 6 years.





## Amendments to Canada's Immigration and Refugee Protection Regulations

### 4. Ministerial instructions to suspend and revoke LMOs, or refuse to process LMO applications

As a result of Ministerial Instructions, ESDC may suspend or revoke LMOs, or refuse to process LMO applications, under identified public policy considerations. Decisions governing the LMO suspension or revocation will not be taken lightly. Employers facing suspension or revocation of their LMOs will be contacted and be given opportunity to respond.

ESDC/Service Canada may also refuse to process LMO applications based on the public policy considerations provided in the Ministerial Instructions for selected sectors, regions, or occupational groups.

ESDC will publish on its website in advance, any information related to any decision made by the government regarding the refusal to process LMO applications for any specified groups.

For more information visit the:

- *Immigration and Refugee Protection Regulations and the Regulatory Impact Assessment Statement* for an expansion on the intent of the regulatory amendments.
- *Ministerial Instructions*

Source: POLO-TORONTO  
April 2014

**Marketing Branch**  
**Philippine Overseas Employment Administration**  
**[www.poea.gov.ph](http://www.poea.gov.ph)**

