



## **Employment and Social Development Canada's Questions and Answers for Moratorium on the Food Services Sector's access to the Temporary Foreign Worker Program (TFWP)**

Pursuant to the moratorium of the Canadian Federal Employment Ministry on the food services sector's access to the Temporary Foreign Worker Program that took effect on 24 April 2014, the Employment and Social Development Canada (ESDC) issued pertinent Questions and Answers (Q & A) related to the said moratorium.

POLO -Toronto emphasized items of the Q & A for the information of Canada bound workers, to wit:

### **"3) Does this moratorium affect temporary foreign workers already in Canada or about to come to Canada?"**

Temporary foreign workers already in Canada who have a valid work permit issued under a Food Services Sector LMO may continue working as per their present work permit conditions.

Temporary foreign workers who have been approved for a work permit by Citizenship and Immigration Canada (CIC) but have not yet arrived in Canada will not be affected. They will remain eligible for a work permit at a port of entry, if they are otherwise admissible to Canada.

Foreign nationals who have not yet had a decision made on their work permit application will be affected. Foreign nationals who submitted their work permit application prior to the suspension will be notified that their work permit application is suspended until a final decision is made on the LMO.

Foreign nationals who apply directly at a port of entry, a visa post or inland office for a work permit after their LMO has been suspended cannot be issued a work permit based on that LMO."

Attached is the full text of the Q & A for reference and information.

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



## Questions and Answers

### Re: Moratorium on the Food Services Sector's access to the Temporary Foreign Worker Program (TFWP)

- 1) Why did the Government impose this moratorium?
  - In recent weeks, the Government became aware of some serious allegations of abuse of the Temporary Foreign Worker Program. In response, officials investigated these matters urgently to determine the facts, Labour Market Opinions were suspended, and employers in question were placed on a public blacklist.
  - Despite these actions, there remain serious concerns regarding the use of the Temporary Foreign Worker Program in the Food Services Sector. Therefore, this moratorium will remain in effect until the completion of the on-going review of the Temporary Foreign Worker Program.
- 2) Who will be impacted by this moratorium?
  - To be affected by the moratorium, employers must meet 2 criteria.
  - The employer MUST be:
    - classified under [North American Industry Classification System 722](#), defined as establishments primarily engaged in preparing meals, snacks and beverages, to customer order, for immediate consumption on and off the premises. This subsector does not include food service activities that occur within establishments such as hotels, civic and social associations, amusement and recreation parks, and theatres. However, leased food-service locations in facilities such as hotels, shopping malls, airports and department stores are included.
    - AND
    - applying for LMOs for occupations related to specific [National Occupational Classification codes](#) (NOC 2006). List of NOC codes occupations affected by the moratorium in the Food Services Sector (NAIC 722):
      - 6641 Food Counter Attendants, Kitchen Helpers and Related Occupations
      - 0631 Restaurant and Food Service Managers
      - 6212 Food Service Supervisors
      - 6453 Food and Beverage Servers
      - 6611 Cashiers
      - 6241 Chefs
      - 6242 Cooks
      - 6252 Bakers
      - 0611 Sales, Marketing and Advertising Managers
      - 0621 Retail Trade Managers
      - 0632 Accommodation Service Managers
      - 0651 Other Services Managers
      - 6211 Retail Trade Supervisors
      - 6213 Executive Housekeepers
      - 6214 Dry Cleaning and Laundry Supervisors
      - 6215 Cleaning Supervisors
      - 6216 Other Service Supervisors
      - 6221 Technical Sales Specialists - Wholesale Trade
      - 6251 Butchers, Meat Cutters and Fishmongers - Retail and Wholesale
      - 6411 Sales Representatives - Wholesale Trade (Non-Technical)
      - 6421 Retail Salespersons and Sales Clerks
      - 6451 Maîtres d'hôtel and Hosts/Hostesses
      - 6452 Bartenders
      - 6484 Other Personal Service Occupations
      - 6622 Grocery Clerks and Store Shelf Stockers
      - 6623 Other Elemental Sales Occupations
      - 6651 Security Guards and Related Occupations
      - 6661 Light Duty Cleaners
      - 6662 Specialized Cleaners
      - 6663 Janitors, Caretakers and Building Superintendents
      - 6681 Dry Cleaning and Laundry Occupations

- 6682 Ironing, Pressing and Finishing Occupations
    - 6683 Other Elemental Service Occupations
- 3) Does this moratorium affect temporary foreign workers already in Canada or about to come to Canada?
  - Temporary foreign workers already in Canada who have a valid work permit issued under a Food Services Sector LMO may continue working as per their present work permit conditions.
  - Temporary foreign workers who have been approved for a work permit by Citizenship and Immigration Canada (CIC) but have not yet arrived in Canada will not be affected. They will remain eligible for a work permit at a port of entry, if they are otherwise admissible to Canada.
  - Foreign nationals who have not yet had a decision made on their work permit application will be affected. Foreign nationals who submitted their work permit application prior to the suspension will be notified that their work permit application is suspended until a final decision is made on the LMO.
  - Foreign nationals who apply directly at a port of entry, a visa post or inland office for a work permit after their LMO has been suspended cannot be issued a work permit based on that LMO.
- 4) What is the effect of this moratorium?
  - ESDC will not process any new or pending LMO applications related to the Food Services Sector. In addition, any unused positions tied to a previously approved LMO will be suspended. An unused position is a position for which a work permit has not yet been approved by CIC. This moratorium applies to occupational categories within the Food Services Sector.
- 5) How long is this moratorium going to remain in effect?
  - This moratorium will remain in effect until the completion of the on-going review of the Temporary Foreign Worker Program.
- 6) Will an employer be refunded the \$275 LMO processing fee if Service Canada does not finish processing the application?
  - Yes, employers who have paid the \$275 application fee but not received an LMO decision will have fees refunded.
  - In July 2013, the Government of Canada imposed an application fee of \$275 per position for employers applying for temporary foreign workers through the LMO process. This ensures that taxpayers and work permit holders no longer subsidize the provision of this service to employers.
- 7) Does this affect the Seasonal Agricultural Worker Program?
  - No. This moratorium in no way affects the Seasonal Agricultural Worker Program as there are proven acute labour shortages in this industry and the unused jobs are short term by definition. Further, primary agriculture and processing are also not affected. This moratorium only applies to the Food Services Sector.
- 8) What other reforms to the Temporary Foreign Worker Program has the government made to date?
  - We have made reforms to the Temporary Foreign Worker Program to ensure that Canadians are first in line for available jobs and to ensure that employers do not take advantage of foreign workers. These include:
    - The authority to conduct on-site inspections to make sure employers are meeting the conditions of the program;
    - Introducing legislative authority to impose significant financial penalties for employers who break the rules;
    - The ability to ban non-compliant employers from the program for two years and immediately add their names to a public "black list";
    - Requiring employers who legitimately rely on TFWs, due to a lack of qualified Canadian applicants, have a plan to transition to a Canadian workforce over time;
    - Requiring employers pay TFWs at the prevailing wage by removing the existing wage flexibility;
    - Adding questions to employer LMO applications to ensure that the TFWP is not used to facilitate the outsourcing of Canadian jobs;
    - Introducing fees for employers for LMO processing and increasing the fees for work permits, so that hard-working taxpayers are no longer subsidizing these costs;
    - Making English and French the only languages that can be used as a job requirement when hiring through the TFW process; and,
    - Suspending the Accelerated Labour Market Opinion process.
- 9) What happens to someone on a valid work permit currently working in an affected occupation?

Temporary foreign workers who are already in Canada and have a valid work permit issued under a Food Services Sector LMO may continue working under the conditions of their current work permit.

- 10) What happens to someone who wants to apply for a work permit for an occupation associated to a positive labour market opinion (LMO) in the Food Services Sector
  - This individual will not be able to get a work permit associated to that LMO at this time. A suspended LMO is not valid to support a work permit application. Any unused positions tied to a previously approved LMO will be suspended and employers will not be able to fill those positions. An unused position is a position for which a work permit has not yet been approved by CIC.
  - Foreign nationals who have not been approved for a work permit by CIC prior to presenting themselves at a port of entry cannot be issued a work permit on the basis of a suspended LMO. All LMOs have been suspended for new work permit applications in the Food Services Sector. If the applicant did not apply prior to the suspension, they are no longer able to obtain a work permit at the port of entry.
- 11) What happens to someone outside Canada who had already applied for a work permit in an affected occupation but has not yet heard back?
  - The processing of the work permit will be suspended until the review of the Temporary Foreign Worker Program has been completed and the moratorium lifted.
  - An individual who has not received approval for a work permit from CIC should not make a work permit application to CBSA at a port of entry. Since LMOs with unused positions in the Food Services Sector have been suspended, no new work permits will be issued by CBSA until the moratorium is lifted, unless they have been previously approved by CIC.
- 12) What happens to someone who is already working in Canada but has applied for a work permit extension in an affected occupation prior to the suspension of their LMO?
  - The LMO will have been suspended; therefore the processing of the work permit extension application will also be suspended until a final decision on the suspended LMO is made by ESDC.
  - When their original work permit expires, a person in this situation may have [implied status](#) if their work permit application was submitted prior to the expiry of their present work permit. This means that they will be able to remain in Canada and continue working for the same employer that appeared on their original work permit. People in this situation will continue to have implied status until a final decision is made on their work permit extension application.
- 13) What happens to someone currently in Canada whose work permit for an affected occupation is expiring but has yet to apply for an extension?
  - A valid LMO is required to apply to renew a work permit. A work permit cannot be renewed on a suspended LMO. This applies at the port of entry as well.
  - A person in this situation must leave Canada when their work permit expires unless they can obtain a different work authorization or otherwise qualify for status in Canada.

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