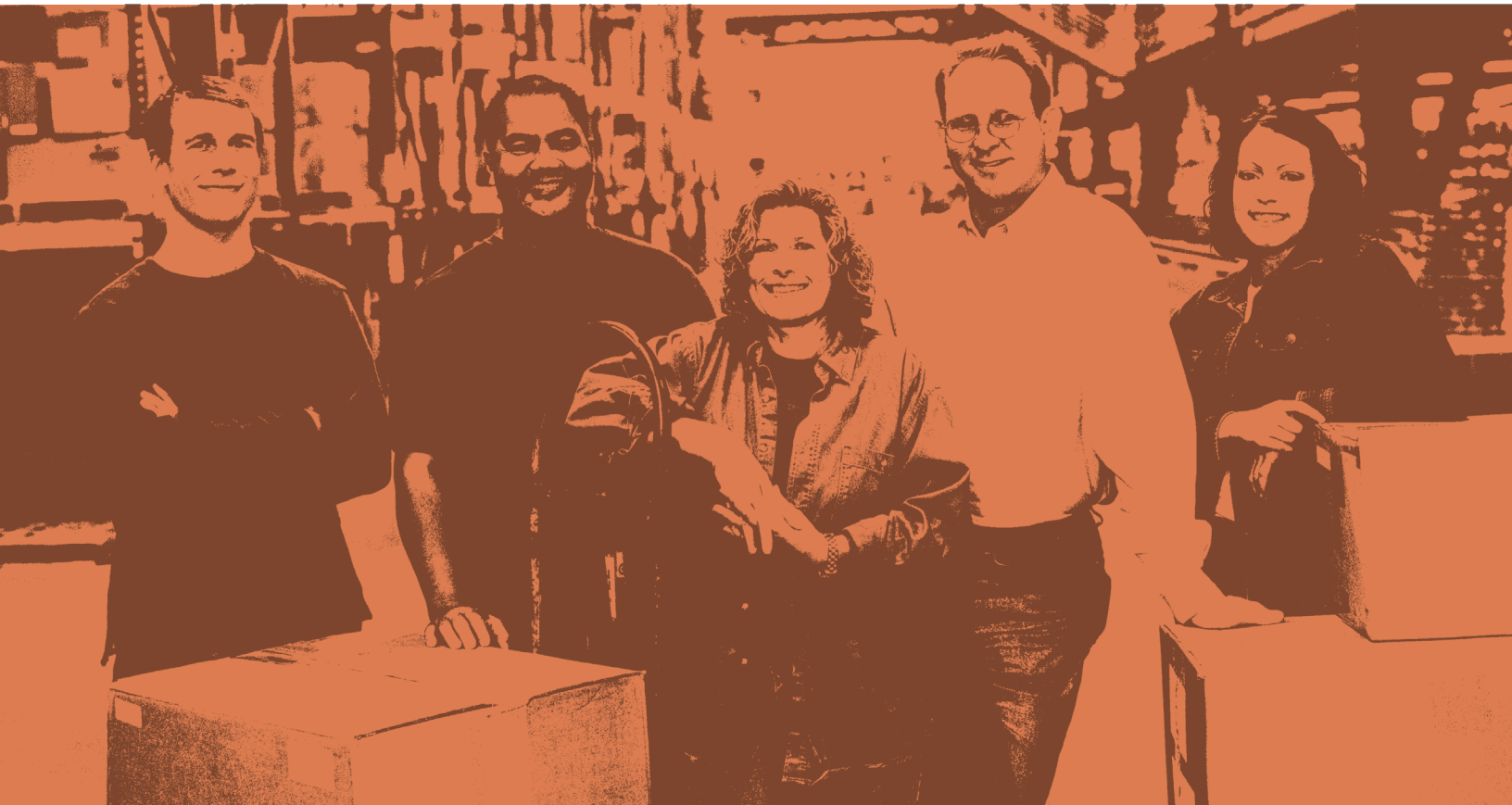


# Hiring Immigrants and Temporary Foreign Workers

**A Report for Employers**

January 2009



***Our Industry. Your Council!***

**Canada**

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**Canadian Trucking  
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## Contact Information

Canadian Trucking Human Resources Council  
203–720 Belfast Road  
Ottawa, ON K1G 0Z5  
Tel.: 613-244-4800  
Fax: 613-244-4535  
E-mail: [info@cthrc.com](mailto:info@cthrc.com)  
Internet: [www.cthrc.com](http://www.cthrc.com)



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## Introduction

The purpose of this report is to help employers recruit immigrants and temporary foreign workers who are qualified and interested in working in the trucking industry. This report focuses specifically on two occupational groups:

1. Professional Truck Drivers
2. Truck and Transport Mechanics

Canada, like other countries, is facing a shrinking workforce — baby boomers are retiring and birth rates are falling. In other words, the pool of Canadian workers is getting smaller. At the same time, Canada's labour force is becoming increasingly multicultural. Immigrants and temporary foreign workers represent a largely untapped source of potential employees. They bring with them great diversity in their education, training, on-the-job skills and life experiences. Most are highly motivated to succeed in their new life in Canada and this motivation often translates in to a strong work ethic, a willingness to work hard, and dedication to their job.

There can be barriers to hiring immigrants and temporary foreign workers.

- Employers may experience challenges when integrating people who are new to Canada. Language barriers and cultural differences, if not appropriately handled, may create tension and friction.
- Employers must be ready to integrate immigrants and temporary foreign workers into their workplaces. Creating a welcoming and inclusive work environment and educating existing employees about cultural differences is critical.
- Due diligence requires that employers validate past employment history, check references, and assess language skills. It can be difficult to verify the qualifications and employment background of an immigrant or temporary foreign worker, but it is possible.
- The process to obtain approval to hire temporary foreign workers may require interaction with one or more government departments. It can be confusing, time consuming and complex.

Hiring immigrants and temporary foreign workers requires an investment of time, money and resources and it requires commitment over the long term to be successful. It is not a quick fix, nor is it without risk. Temporary foreign workers are not the solution to the labour shortage as they are intended to fill temporary/short term labour gaps. Immigrants are a more long term solution and are an important component of a broader recruiting strategy.

This report is designed to get you started on the process of hiring immigrants and temporary foreign workers. For more detailed information and practical tips and tools on attracting, selecting, integrating and retaining immigrants and temporary foreign workers, make sure you read Canadian Trucking Human Resources Council (CTHRC)'s *Your Guide to Human Resources: Practical Tips and Tools for the Trucking Industry, Volume II*, available on [www.cthrc.com](http://www.cthrc.com). The balance of this report provides background information on the programs, costs, and timelines associated with hiring immigrants and temporary foreign workers. As well, links to relevant government programs and other resources are provided. As government programs change regularly, make sure you check the websites listed for the most up to date information.

## Government Agencies

### **Citizenship and Immigration Canada ([www.cic.gc.ca](http://www.cic.gc.ca))**

In most cases, Citizenship and Immigration Canada is the first point of contact for immigrants and temporary foreign workers who want to live and work in Canada. Citizenship and Immigration Canada and visa offices at Canadian embassies, high commissions and consulates outside Canada, process applications and determine who may enter Canada through immigration programs.

### **Human Resources and Skills Development Canada ([www.hrsdc.gc.ca](http://www.hrsdc.gc.ca))**

Human Resources and Skills Development Canada (HRSDC) is a federal government department that creates programs and support initiatives that help Canadians move through life's transitions — from families with children to seniors, from school to work, from one job to another, from unemployment to employment, from the workforce to retirement. In conjunction with Citizenship and Immigration Canada and the Canada Border Services Agency, Human Resources and Skills Development Canada administers the Temporary Foreign Worker Program through its delivery arm, Service Canada.

### **Service Canada ([www.servicecanada.gc.ca](http://www.servicecanada.gc.ca))**

Service Canada is the delivery arm of HRSDC that provides services to Canadians on the programs and initiatives sponsored by HRSDC. Service Canada is the agency that reviews Labour Market Opinion applications and gives approval (or not) for employers to hire temporary foreign workers for a specific job. This approval is called a Labour Market Opinion (LMO). A Labour Market Opinion is often the first step required before an employer can bring temporary foreign workers into Canada to work temporarily. Service Canada has regional offices across Canada.

### **Canada Border Services Agency ([www.cbsa-asfc.gc.ca](http://www.cbsa-asfc.gc.ca))**

Canada Border Services Agency (CBSA) ensures the security and prosperity of Canada by managing the access of people and goods to and from Canada. Border Services officers screen temporary foreign workers at the Canadian port of entry to ensure that they meet admissibility requirements. Based on the work permit authorization letter issued by Citizenship and Immigration Canada, a Border Services officer has the final say on who may/may not enter Canada. Officers may deny entry to a temporary foreign worker if they do not meet the requirements of the Immigration and Refugee Protection Act.

# Immigrants

An immigrant is a person who has come to Canada on a permanent basis through the Federal Immigration Program. The qualifying categories under this program are:

- **Skilled workers and professionals**  
For people who want to settle and work in Canada (outside of Quebec)
- **Quebec selected skilled workers**  
For people selected by the Quebec government to settle and work in Quebec
- **Canadian Experience Class**  
For people who have recent Canadian work experience or who recently graduated and worked in Canada
- **Investors, entrepreneurs and self-employed people**  
For people who want to start a business in Canada
- **Provincial Nominee Program**  
For people who are nominated to settle and work in Canada by one of Canada's provinces or territories
- **Family Sponsorship**  
For people who are permanent residents and want to sponsor a family member to come to Canada

An immigrant who is already a resident in Canada but has not yet applied for or been granted Canadian citizenship is called a 'permanent resident'. Regardless of the term used, an immigrant is free to live and work anywhere they want in Canada, unlike temporary foreign workers who are traditionally tied to one employer with their work permits (although mobility exists).

## 1. Professional Truck Drivers

Foreign truck drivers who wish to immigrate to Canada and work in the trucking industry fall under the semi-skilled worker category and can qualify under the Provincial Nominee Program.

Immigrants already in Canada may choose to change careers and work as truck drivers. They may have varied educational and work backgrounds, most often in industries other than trucking. Many of them are highly educated, with work experience at the supervisory or managerial level, and many will be new to driving. As the driver recruiting process is compliance driven, there may be challenges validating past employment history, checking references or assessing language skills of an immigrant.

## 2. Truck and Transport Mechanics

Foreign mechanics who wish to immigrate to Canada and work in the trucking industry fall under the skilled worker category and can qualify under the Federal Skilled Worker Program and the Provincial Nominee Program. On arrival in Canada, they may face two major hurdles to continuing in their trade in Canada — difficulty transferring their credentials and a lack of Canadian work experience. You can ask for

certification or journeyman papers where applicable. Your provincial trucking and automotive sector councils or your provincial government's Apprenticeship Training or Skills Development department may be able to assist with qualification assessment, skills upgrading or certification.

Immigrants already in Canada may choose to work as mechanics in the trucking industry. There is no special process to hire immigrants already in Canada. The process you use to review their application and conduct interviews is the same as you would use for a Canadian born applicant. You should be aware of the impact of cross cultural communication and strive to make your process bias free.<sup>1</sup>

To confirm credentials, you can use a third party provider who specializes in this area. World Education Services (WES) ([www.wes.org](http://www.wes.org)) offers evaluations of certificates, diplomas and degrees earned by immigrants. The average processing time for an evaluation is about seven business days and the cost is \$115 per application. It is important to validate past employment history, and check references.

Immigrants, whether hired as truck drivers or mechanics, need the same orientation and training as any other new employee. In addition, they may need assistance improving their English (if English is not their first language) and adapting to Canadian workplace practices.

The process, cost, and timelines to hire an immigrant as a truck driver or mechanic are the same as any other employee.

## Federal Skilled Worker Program

Foreign mechanics who wish to immigrate to Canada under this program have to follow these steps to apply:

1. obtain and print the correct application package
2. complete your application
3. determine where to submit your application
4. calculate your fees
5. check your application
6. submit your application

Detailed information on the eligibility criteria, application rules, processing times and costs are available at [www.cic.gc.ca/english/immigrate/skilled/index.asp](http://www.cic.gc.ca/english/immigrate/skilled/index.asp)

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<sup>1</sup> For more information, see *Module 4: Immigrants, Your Guide to Human Resources: Practical Tips and Tools for the Trucking Industry, Volume II*, available at [www.cthrc.com](http://www.cthrc.com).

## Provincial Nominee Program (PNP)

### From Temporary to Permanent:

A Provincial Nominee Program is an agreement between the federal and provincial government that allows the province to identify occupations that address labour shortages specific to that region.

Foreign truck drivers who wish to immigrate to Canada and work in the trucking industry must use a Provincial Nominee Program as they do not qualify to immigrate under the Skilled Worker Program (occupation considered low skilled — Skill level C) unlike foreign mechanics who do qualify under the Skilled Worker Program (occupation considered high skilled — Skill level B).

Most provinces have a Provincial Nominee Program,<sup>2</sup> and many are employer driven. In these cases, employers can nominate temporary foreign workers for permanent resident status based on certain criteria.

If your province has a Provincial Nominee Program (PNP) and you are satisfied with the performance of the temporary foreign worker, you may make a written offer of permanent full time employment. Most carriers with experience in this area recommend that a temporary foreign worker complete at least the full probationary period, a minimum of six months or longer, before a permanent job offer is made.

With an employer sponsor, and the permanent job offer in hand, the temporary foreign worker may apply to the Provincial Nominee Program for permanent resident status. The province conducts the initial screening and review of the file. The process involves significant paperwork and will take a period of three to six months, if the file is complete.

Ideally, the foreign worker should apply to the Provincial Nominee Program no earlier than the sixth month and no later than the eighteenth month of their work permit, or when program criteria are met. This will ensure there is adequate time to process their application.

If the application to the Provincial Nominee Program is successful, the foreign worker will receive a nomination letter. The foreign worker can then make an application to Citizenship and Immigration Canada for permanent resident status. At this time, the spouse (if applicable) of the nominated foreign worker can apply for a work permit as well, through Citizenship and Immigration Canada.

Processing time will vary on a case by case basis. However, the initial screening by the provinces greatly shortens the time it takes for the application for permanent resident to be processed.

While the foreign worker waits to receive word on their permanent resident status, they can apply for an extension of their work permit (if required). Citizenship and Immigration Canada will assess applications on a case by case basis based on the requirements of Immigration Refugee Protection Act (IRPA) and

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<sup>2</sup> The Canada-Quebec Accord on Immigration allows Quebec to establish its own immigration requirements and select and process foreign workers based on their own selection criteria and in demand occupations. Ontario's Provincial Nominee Program is a pilot and Nova Scotia's was suspended at the time of publication (December 2008).

Immigration and Refugee Protection Regulations (IRPR) and decide whether an extension will be issued or not.

If you wish a foreign workers' stay to be extended beyond the original period of the work permit, the worker must complete an Application to Change Conditions or Extend Your Stay in Canada as a Worker. Applications for extensions must be made no later than 30 days before the expiry date of the foreign workers' current status.

For more information about the immigration process, go to [www.cic.gc.ca](http://www.cic.gc.ca). A full list of fees and detailed information for each Provincial Nominee Program can be found by visiting the provincial immigration websites listed below:

### British Columbia

The British Columbia Provincial Nominee Program (BC PNP) offers accelerated immigration for qualified skilled workers and experienced entrepreneurs who wish to settle in British Columbia and become permanent residents of Canada.

Mechanics are eligible under the skilled worker category. Mechanics must have 2–5 years of apprenticeship training and apprenticeship or trades certification, and several years of directly related work experience.

British Columbia has an entry level and semi-skilled pilot project that includes truck drivers. Nominee applicants must have been employed by the sponsoring company as a truck driver on a temporary work permit for at least 9 months immediately prior to the date of application to the Provincial Nominee Program and must be legally employed by the sponsoring company at the time of application. Nominee applicants must have at least 2 years employment experience as a truck driver in the 3 years prior to their application to the Provincial Nominee Program. Nominees must hold a valid BC Class 1 driver's licence and, if required, air brake endorsement and other certification (e.g., for transporting dangerous goods).

### Alberta

The Alberta's Immigrant Nominee Program (AINP) is an immigration program operated on behalf of the Government of Alberta by the Ministry of Employment and Immigration in conjunction with Citizenship, Immigration and Multiculturalism Canada (CIMC) to expedite the processing of an application for permanent residence. The AINP is designed to support Alberta's economic growth by attracting labour market destined immigrants to the province. The AINP is an employer driven skilled worker immigration program that includes truck drivers (Semi-Skilled Worker Category) and mechanics (in the Skilled Worker Category).

**Tradespersons** who are recruited as temporary foreign workers must meet the assessment and certification requirements of the Alberta Apprenticeship and Industry Training Board in order to be able to practise their particular trade in Alberta. Employers must ensure that tradespersons recruited via the Temporary Foreign Worker program have made arrangements with this trades regulatory body to have their foreign credentials — education standard and experience — assessed for qualification certification.

*An Employer Guide to Hiring Temporary Foreign Workers* is available on their website.  
[www.employment.alberta.ca/documents/WIA/WIA-IM\\_tfw\\_employer.pdf](http://www.employment.alberta.ca/documents/WIA/WIA-IM_tfw_employer.pdf)

## Saskatchewan

Saskatchewan was one of the first provinces to include truck drivers in their Immigrant Nominee Program (SINP). A Long Haul Truck Driver Recruitment and Settlement Plan is available on their website.

Mechanics are eligible under the skilled worker category. Most trades in Saskatchewan are voluntary trades, including mechanics. To work in a voluntary trade, you are not required to be a certified journeyman or an apprentice.

## Manitoba<sup>3</sup>

Manitoba's Provincial Nominee Program (MPNP) was the first to include truck drivers. Employer Direct is a priority assessment stream that helps Manitoba employers hire a temporary foreign worker who is already working in Manitoba. Under this stream, temporary foreign workers can apply to immigrate to Manitoba on the strength of an offer of a long term, full time job from a Manitoba employer.

To be considered for nomination, temporary foreign workers must demonstrate that they have: a formal offer of long term, full time job with a Manitoba employer; the training, work experience and language ability required for the job they have been offered (including any licence or certification required in their country of residence); and, the intention and the ability to settle permanently in Manitoba. Both mechanics and truck drivers are eligible.

## Ontario

Ontario's pilot Provincial Nominee Program (PNP) is designed to help employers attract skilled immigrants to meet their labour needs by getting them on the fast track to permanent residency. The pilot PNP is designed to contribute to job creation, job retention and economic development by attracting new investment, and by helping employers in targeted sectors to attract and retain qualified employees for jobs for which there are currently labour market needs.

The pilot PNP supports government priorities by facilitating the immigration of professionals in the health care, education, manufacturing and construction sectors. At this time, only 20 occupations are eligible under the pilot. Truck drivers and mechanics are not eligible.

## Quebec

The Canada-Quebec Accord on Immigration allows Quebec to establish its own immigration requirements and select temporary foreign workers who will adapt well to living in Quebec. The provincial government has the authority to determine which occupations are in demand. Mechanics are one of the occupations at this time; truck drivers are not.

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<sup>3</sup> Manitoba's Worker Recruitment and Protection Act came into force on April 9, 2009.

## New Brunswick

New Brunswick's Provincial Nominee Agreement allows the province to select a number of immigrants to fulfill specific economic needs, including specific labour market requirements.

To be considered under the Provincial Nominee Program, an applicant must have a guaranteed job offer in his/her intended occupation. The job must meet provincial employment standards and offer comparable industry rates of pay. In most cases, the skills offered by the potential immigrant are not readily available in New Brunswick, and employers must demonstrate that they are having difficulty finding these skills in the local job market. Both mechanics and truck drivers are eligible.

Each applicant is measured under five factors: age, language skills, education, work experience/business experience and adaptability. Applicants must make a commitment to settle permanently in New Brunswick and are required to sign a declaration stating their intention to live and work in the province.

## Nova Scotia<sup>4</sup>

The Nova Scotia Nominee Program (NSNP) offers a faster entry into Canada for qualified workers and experienced entrepreneurs who wish to settle in Nova Scotia and become permanent residents of Canada. It allows Nova Scotia to recruit and select immigrants who can contribute to meeting the labour market and economic needs of the province.

Mechanics are eligible under the Skilled Worker category. The Trucking Human Resources Sector Council Atlantic and NSNP established a pilot project for recruiting foreign truck drivers in 2007.

## Prince Edward Island

The Prince Edward Island Provincial Nominee Program (PEI PNP) expedites immigration to Canada for individuals and their families who meet provincial criteria (based on a combination of education, age, language, experience and adaptability).

The Prince Edward Island Provincial Nominee Program is a shared responsibility: the province recruits, selects and nominates qualified immigrant applicants, and the federal government completes security and health background checks and gives final approval.

At this time, there are four categories under the Prince Edward Island Provincial Nominee Program. Truck drivers and mechanics are eligible occupations under the Skilled Worker Category.

*An Employer Guide to Hiring Foreign Workers* is available on their website.

[www.gov.pe.ca/search/index.php3?words=employer+guide+to+hiring+foreign+workers](http://www.gov.pe.ca/search/index.php3?words=employer+guide+to+hiring+foreign+workers)

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<sup>4</sup> Nova Scotia Provincial Nominee Program was suspended at the time of printing.

## Newfoundland & Labrador

The Newfoundland and Labrador Provincial Nominee Program seeks to recruit immigrants who have specialized occupational or entrepreneurial skills. Through an agreement with the Government of Canada, the Government of Newfoundland and Labrador may nominate immigrants, who can contribute to the economic and social goals of the province, for permanent resident status. Nominees must settle in Newfoundland and Labrador and have sufficient ability to communicate in either English or French. Depending upon the program category in which an application is submitted, specific financial and other criteria will apply.

Mechanics are eligible under the Occupational/Skilled Worker category. Under this program, an applicant with specialized skills and experience that fills a shortage or specialized need in the existing provincial labour market is eligible. Applicants must have either a guaranteed job offer from a local employer or be currently employed within the province on a valid work permit.

## Yukon Territory

The Yukon Nominee Program was developed to allow the Government of Yukon to nominate potential immigrants based on industrial and economic priorities and labour market conditions; and who, based on Yukon's assessment, have a strong likelihood of successfully establishing themselves in Yukon society.

The Yukon offers the Skilled Worker/Critical Impact Worker Program. The Yukon Skilled Worker Program is designed to attract qualified individuals who can help alleviate the shortage of skilled workers in the territory who cannot be found within the current territorial or national labour market. The Skilled Worker Program is an employer driven process. The employer must have a job vacancy and identify a potential nominee. Mechanics are eligible under this program. The Critical Impact Worker Category provides Yukon employers with the means to fill semi-skilled jobs at Levels C and D of the National Occupational Code. Truck drivers are eligible under this category.

## Temporary Foreign Workers

A temporary foreign worker is a person who has come to Canada to work on a temporary/short term basis through the Temporary Foreign Worker Program (TFWP). This is a program of last resort and a temporary solution to labour gaps.

### 1. Professional Truck Drivers

Foreign truck drivers who wish to work in the Canadian trucking industry on a temporary/short term basis can qualify for the Temporary Foreign Worker Program under the pilot project for Occupations Requiring Lower Levels of Formal Training. An important note: the only type of driving job eligible under this program is long haul truck drivers. Temporary foreign workers may be able to apply for permanent residency through the Provincial Nominee Program, provided that they meet the program criteria.

### 2. Truck and Transport Mechanics

Foreign mechanics who wish to work in the Canadian trucking industry on a temporary/short term basis can also qualify for the Temporary Foreign Worker Program. The following government agencies play a role in the Temporary Foreign Worker Program:

- Citizenship and Immigration Canada (CIC)
- Service Canada, the delivery arm of Human Resources and Skills Development Canada (HRSDC)
- Canada Border Services Agency (CBSA)

Service Canada is the agency that reviews Labour Market Opinion applications and gives approval (or not) to employers to hire temporary foreign workers for a specific job. This approval is called Labour Market Opinion (LMO).

To qualify for a Labour Market Opinion, employers must demonstrate, among other things, that they cannot find qualified Canadians or permanent residents to fill jobs.<sup>5</sup>

Once Service Canada has provided a Labour Market Opinion and the employer has made a job offer or signed an employment contract with a foreign worker which outlines the wages, duties and conditions related to the transportation, accommodation, health and occupational safety of the foreign worker. The foreign worker must apply to Citizenship and Immigration Canada for authorization to enter Canada to work in the job. This authorization is called a work permit.

Many provinces in Canada have Provincial Nominee Programs. The trucking industry uses this program to assist qualified temporary foreign workers through the immigration process to become permanent residents of Canada.

<sup>5</sup> For a complete list of the six factors, refer to the *Immigration and Refugee Protection Act Regulations* (IRPA) S. 203 (a) to (f).

## Application Process (TFWP)<sup>6</sup>

In the majority of cases, there are just three steps to hire a temporary foreign worker from outside of Canada.<sup>7</sup>

### Step 1: Apply for a Labour Market Opinion

Service Canada is the agency that reviews Labour Market Opinion applications and provides Citizenship and Immigration Canada and employers their opinion whether employers can bring temporary foreign workers to Canada. A Labour Market Opinion is an assessment of the likely impact that the hiring of a foreign worker may have on the Canadian labour market.

Employers must obtain a Labour Market Opinion before a temporary foreign worker can apply for a work permit which would allow them to work in Canada. To apply for a Labour Market Opinion, you must complete an application and submit it to the Service Canada centre serving your region.

Service Canada considers the following factors when reviewing a Labour Market Opinion application:

- whether the employment of the temporary foreign worker is likely to result in direct job creation or job retention for Canadian citizens or permanent residents
- whether the employment of the temporary foreign worker is likely to result in the creation or transfer of skills and knowledge for the benefit of Canadian citizens or permanent residents
- whether the employment of the temporary foreign worker is likely to fill a labour shortage
- whether the wages offered to the temporary foreign worker are consistent with the prevailing wage rate for the occupation and whether the working conditions meet generally acceptable Canadian standards
- whether the employer has made, or has agreed to make, reasonable efforts to hire or train Canadian citizens or permanent residents
- whether the employment of the temporary foreign worker is likely to adversely affect the settlement of any labour dispute

#### Important!

Immigration regulations are complex.

Before you proceed, make sure you understand the requirements.

6 Reproduced from How to Hire a Temporary Foreign Worker (TFW): A Guidebook for Employers, Citizenship and Immigration Canada, [www.cic.gc.ca/ENGLISH/RESOURCES/PUBLICATIONS/tfw-guide.asp](http://www.cic.gc.ca/ENGLISH/RESOURCES/PUBLICATIONS/tfw-guide.asp)

7 The need to complete each step will depend on the specifics of the job offer and the foreign worker's country of citizenship and last permanent residence. Employers and foreign workers must provide accurate and complete information or the application process will be delayed.

There is an additional set of criteria that must be met under the requirements of the pilot project for Occupations Requiring Lower Levels of Formal Training. Employers must:

- demonstrate on going efforts to recruit qualified Canadian youth, Aboriginal peoples, recent immigrants, Canadians who live in areas of high unemployment, as well as unemployed Canadians, to fill long haul driving jobs
- consult the union if the position is covered under a collective agreement
- cover all recruitment costs related to hiring of the foreign driver
- commit to paying a foreign driver the same wages<sup>8</sup> and benefits as a Canadian driver
- assist the foreign driver(s) to find suitable, affordable accommodation
- pay the full transportation costs for the foreign driver to and from his/her home country
- provide medical coverage until the foreign driver is eligible for provincial health insurance coverage (usually the first three months after arrival in Canada)
- register the foreign driver under the appropriate provincial Workers' Compensation/Workplace Safety Insurance plan
- sign an employment contract outlining the job duties, wages and benefits, working conditions, arrangements for return transportation, accommodation, and medical coverage for the foreign driver

If the Labour Market Opinion is **positive**, Service Canada will issue an employment confirmation in writing. This response is forwarded to the employer and Citizenship and Immigration Canada. You must forward a copy to the temporary foreign worker along with a signed copy of the job offer and employment contract. The Labour Market Opinion can be positive or neutral for an employment confirmation to be issued.

If the Labour Market Opinion is **negative**, Service Canada will inform you in writing of the negative decision. If you disagree with the decision and have new information that may affect the decision, you may submit it and your application will be re-assessed.

There is no cost to apply for a Labour Market Opinion. It can take several weeks, or longer, for approval and can vary by region.

If you plan to hire more than one temporary foreign worker, it may make sense to apply for pre-approval. The process may differ by province, but generally you can get pre-approval to hire temporary foreign workers, then when you find a qualified applicant, you apply for an individual Labour Market Opinion, naming the foreign worker you wish to hire.

You should check with your local Service Canada office to see whether it will accept an application for pre-approval.

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<sup>8</sup> If the offer of employment is for longer than 12 months, you are required to review and adjust (if necessary) the driver's wage after 12 months of employment. This will ensure that the wages you pay the foreign driver continue to meet the prevailing wage rate of the occupation and region where he is employed.

## Step 2: Applying for a Work Permit

Temporary foreign workers are required to apply for and obtain a work permit to work temporarily in Canada. Citizenship and Immigration Canada, and visa offices at Canadian embassies, high commissions and consulates outside Canada, process applications for work permits and determine who may be eligible to work in Canada. Depending on their country of origin, a temporary foreign worker may require a temporary resident visa to enter Canada, in addition to the work permit.

To apply for a work permit, a temporary foreign worker must provide a copy of the Labour Market Opinion and signed employment contract. Work permits usually have a maximum validity of up to twenty four months. Granting of the work permit is based on the requirements stated in the Labour Market Opinion, but focused on the person who will be doing the job. When the temporary foreign worker applies for a work permit, the onus is on them to supply proof of their experience and qualifications.

Before issuing a work permit, the immigration officer may request additional documentation. They may also check criminal records and require temporary foreign workers to complete a medical exam.

A positive Labour Market Opinion does not guarantee that a work permit will be issued to the temporary foreign worker. Immigration officials or Border Services officers can refuse work permit applications and entry to Canada based on additional information, if they determine that the temporary foreign worker does not meet the qualifications required by the Labour Market Opinion or is otherwise inadmissible to Canada.

## Step 3: Entering Canada

To enter Canada, temporary foreign workers must have documentation with them to present to the Border Services officer at their port of entry:

- a passport or travel document that is valid for the period of the authorized stay
- a signed job offer and/or employment contract
- a work permit or authorization letter issued by Citizenship and Immigration Canada
- a copy of the positive Labour Market Opinion
- evidence of credentials, education, and work experience
- a temporary resident visa (if required)

Once in Canada, the employer is responsible for ensuring the temporary foreign worker meets the terms and conditions of their work permit. Employers should request a copy of the work permit and help ensure that job conditions do not violate the terms of the work permit.

- Temporary foreign workers must leave Canada prior to the expiration of their documents, unless they have applied for permanent resident status through a Provincial Nominee Program or requested an extension to their work permit.

- Temporary foreign workers cannot work for any other employer while they are in Canada, unless they obtain another work permit for a new employer who has an open LMO.<sup>9</sup>
- Temporary foreign workers cannot change their occupation or be promoted into a different job, unless the employer obtains a new LMO and the worker obtains a new work permit.
- Employers cannot remove someone from Canada. If a temporary foreign worker leaves their employment, regardless of the reason,<sup>10</sup> the employer should advise Service Canada, Citizenship and Immigration Canada, and the Canada Border Services Agency.

## Step by Step Guide for Employers (TFWP)<sup>11</sup>

1. Begin the process sufficiently in advance of the date you need the workers to start
2. Recruit/advertise for Canadians and permanent residents and document your efforts and results
3. Find the temporary foreign worker(s) you want to hire
4. Complete the following for submission to Service Canada:
  - a Labour Market Opinion Application
  - the Foreign Worker Application Form (EMP5239B)
  - signed employer/employee contract confirming your job offer to the foreign worker
  - copy of the job advertisement(s) and summary of results to demonstrate comprehensive and ongoing efforts to recruit Canadians and permanent residents
5. If a positive Labour Market Opinion is received from Service Canada, forward the following documentation to the temporary foreign worker and advise them to apply for a work permit and if necessary, a temporary resident visa:
  - a copy of the positive Labour Market Opinion
  - signed job offer/employment contract
6. Contact the temporary foreign worker regarding the status of the work permit/visa application
7. If the work permit is approved, the temporary foreign worker can make travel arrangements. In the case of a truck driver, the employer makes and pays for travel arrangements for the worker

### Important!

Employers can be fined or imprisoned if they knowingly violate Canada's immigration laws and regulations.

Be sure you understand the rules and your obligations under them.

<sup>9</sup> HRSDC views the issue of poaching — an employer who wishes to hire a temporary foreign worker already working in Canada, must ask for and receive a positive or neutral Labour Market Opinion and the temporary foreign worker must apply for a new work permit. The employer is responsible to bring the worker to the new work location and the return transportation costs to his/her country of permanent residence.

<sup>10</sup> The employment contract between a foreign driver and the employer has a termination clause. Either party can terminate the relationship with one week notice. The employer is still responsible for return airfare (in the case of a truck driver).

<sup>11</sup> Reproduced from the *Prince Edward Island Employer Guide to Hiring Foreign Workers*, available at: [www.gov.pe.ca/photos/original/ISFWBENG.pdf](http://www.gov.pe.ca/photos/original/ISFWBENG.pdf)

8. The temporary foreign worker travels to a Canadian port of entry and presents the following documentation to the Canada Border Services officer:
  - a valid passport or travel document that is valid for the period of the authorized stay
  - signed job offer and/or employment contract
  - work permit or authorization letter from Citizenship and Immigration Canada
  - copy of positive Labour Market Opinion
  - evidence of credentials, work experience and qualifications
  - a temporary resident visa (if required)
9. Canada Border Services officer accepts or rejects the temporary foreign worker's entry to Canada
10. Make arrangements to meet and transport the temporary foreign worker to their accommodation and/or employment
11. Welcome individuals from another culture and help them adapt to life in Canada, through an orientation and settlement process

## Frequently Asked Questions<sup>12</sup> (TFWP)

### How much will it cost to hire temporary foreign workers?

There are no costs to apply for a Labour Market Opinion, but there are costs to the employer in bringing temporary foreign workers to Canada.

For truck drivers, employers must pay for all recruiting costs, transportation to and from the foreign worker's home country, provincial medical coverage for the first 90 days, and worker's compensation. These costs are not recoverable from the temporary foreign worker. As well, an employer may have to provide a deposit or down payment to ensure appropriate and affordable accommodation is available for the drivers upon their arrival in Canada.

For mechanics, employers must pay for recruiting costs, provincial medical coverage for the first 90 days, and worker's compensation. Employers are not responsible for paying the cost of their transportation to and from Canada.

There are costs to the temporary foreign worker as well. These costs include processing fees charged by the Canadian government for work permits and visas; copying and translating costs for official documents (which must be in one of Canada's two official languages); and, costs of a medical exam, if required.

<sup>12</sup> Reproduced from the *Prince Edward Island Employer Guide to Hiring Foreign Workers*, available at: [www.gov.pe.ca/photos/original/ISFWBENG.pdf](http://www.gov.pe.ca/photos/original/ISFWBENG.pdf)

## How do I find temporary foreign workers?

Ideally, you should be prepared to conduct a foreign recruitment process using your own internal staff. One of the best ways to get the message out that you are recruiting internationally is on your website. There are also government agencies and departments that may assist you in the recruitment process. Most provinces and the federal government conduct overseas trade missions to promote doing business in Canada. As part of a trade mission, a job fair may be sponsored. Job fairs bring together foreign employers and local job seekers interested in immigrating.

Recruiters and recruiting agencies can be hired to find temporary foreign workers and manage the process for employers in the foreign country, but before you engage a third party to recruit on your behalf, be sure to read [About Engaging a Recruiting Agent](#).

## How long does it take to get a temporary foreign worker here?

Upon receipt of a complete application, Service Canada issues a Labour Market Opinion, usually within several weeks. The foreign worker must then deal directly with the Canadian Embassy or visa office in their home country. Offices may have different procedures to process work permit applications and the workers must comply with the requirements of the office in their home country. Processing times can vary by country.

## Can a temporary foreign worker change employers when they get here?

Yes, workers can change employers if they apply to Citizenship and Immigration Canada and are approved for a change in their work permit. The new employer would be required to receive a positive Labour Market Opinion from Service Canada. Employers cannot recoup airfare or other costs from temporary workers that leave their employ.<sup>13</sup>

## Can I fire a temporary foreign worker?

The employment contract between a foreign worker and the employer has a termination clause. Either party can terminate the relationship with one week notice or whatever federal or provincial labour laws require. The employer is still responsible for return airfare (in the case of a truck driver).

## If an employer requires temporary foreign workers on an annual basis, is there a streamlined or expedited program available?

No, employers must go through all steps of the process each time they need to hire temporary foreign workers.

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<sup>13</sup> HRSDC views the issue of poaching — an employer who wishes to hire a temporary foreign worker already working in Canada, must ask for and receive a positive or neutral Labour Market Opinion and the temporary foreign worker must apply for a new work permit. The employer is responsible to bring the worker to the new work location and the return transportation costs to his/her country of permanent residence.

### **Can the same temporary foreign workers come back year after year?**

Yes, if they continue to meet program criteria. However, one of the underlying principles of the Temporary Foreign Worker Program is that the worker intends to return to their home country. Citizenship and Immigration Canada typically reviews extension requests and work permit applications to assess their continued eligibility for the program.

### **How do I make sure that a temporary foreign worker adapts to work and life in Canada?**

On arrival in Canada, a temporary foreign worker must deal with two main challenges: settling into the local community, and integrating into your workplace. Employers have a responsibility to ensure that both these aspects of the foreign worker's transition to Canada are successful. Employers need to recognize that temporary foreign workers, no matter where they come from, will go through an adjustment process. And existing employees will need to be sensitive to and aware of the challenges faced by temporary foreign workers, and be willing to help them during their integration.

## Engaging a Recruiting Agent

Should employers use a third party recruiting agent? If you do not have the resources internally to carry out a foreign recruitment process, you can use third party recruiters. There are many located in Canada (and abroad) that specialize in international recruitment. Third party recruiting agents offer a variety of services for a range of fees. Some provide job placement services only; others offer settlement services as well to help the foreign worker (and family) make the transition to living in Canada.

### Important!

**As the employer, you are responsible for the actions of the third-party.**

If the agent represents themselves as an immigration consultant, be aware, that to provide advice or representation on immigration matters, an immigration consultant must be a member in good standing of a Canadian provincial or territorial law society<sup>14</sup> or the Canadian Society of Immigration Consultants. You can verify if an immigration consultant is licensed by checking with the Canadian Society of Immigration Consultants or contacting your provincial or territorial law society.

While there are many reputable third party agents, there are an equal number of unscrupulous ones. Employers need to be educated about the risk of using third parties. It is critical to exercise due diligence when engaging an agent to represent you because you are responsible for ensuring that the information provided by the third party to Service Canada is accurate. Make sure the agent has experience working in the trucking industry. Ask for referrals from other carriers and check references.

Make sure that the agent provides you with a contract in writing that specifies a clear set of deliverables, such as the details and fees for all services to be provided. Be very careful that you understand the fee structure. Some agents may charge the foreign worker a fee (sometimes significant) for finding them jobs in Canada. This is illegal. Employers are required to pay all recruitment costs related to hiring a foreign worker and these costs are not recoverable from the foreign worker. Some provinces, such as Alberta, have made this requirement the law, under the Fair Trading Act. Be very selective of third party agents. A third party agent represents your company in the eyes of a foreign worker, and could have a profound effect on your company's operations and reputation. Make sure that they know your business. Audit their work, and stay involved in the process.

The government often receives feedback from employers and other stakeholders that suggests unscrupulous third parties regularly make false promises to temporary foreign workers. These promises include guarantees of Canadian citizenship, and higher wages and benefits than actually paid. If they misrepresent the working conditions, or charge workers an illegal recruiting fee, you, the employer, are responsible. You must ensure they do not make false promises or statements, or provide inaccurate information to the foreign worker or government departments.

<sup>14</sup> Or notaries who are members in good standing of the Chambre des notaires du Québec.

## Summary

Hiring temporary foreign workers is not a solution for the labour shortage, as they are intended to fill temporary/short term labour gaps. Immigrants are a more long term solution and an important component of a broader recruitment and retention strategy. They can play a vitally important role in addressing the human resource needs of the trucking industry. It requires an investment of time, money and resources and commitment over the long term to be successful. Creating a welcoming and inclusive work environment for immigrants and temporary foreign workers is critical to success. A diverse workforce will set you apart from other trucking companies and help you become an employer of choice in the future.

# NOTES

**Canadian Trucking Human Resources Council**

203-720 Belfast Rd., Ottawa ON K1G 0Z5

T: 613-244-4800 F: 613-244-4535

[www.cthrc.com](http://www.cthrc.com)



**Canadian Trucking  
Human Resources Council**