

## **Frequently Asked Questions 900 – 999**

### **Can employers require employees who normally work less than 40 hours a week to work more hours without paying overtime?**

Yes, overtime is normally only calculated after eight hours in a day or 40 hours in a week. Employers control scheduling and can change schedules if they wish.

For example, an employer who has employees that normally work a seven hour day and a 35 hour week, could require the employees to work an additional hour each day without paying overtime.

### **My employer has filed bankruptcy, what do I do now?**

The Government of Canada has recently created the Wage Earner Protection Program for employees who have been terminated because their employer is bankrupt or in receivership. This program may provide eligible employees with up to \$3250.00, or the equivalent of four weeks maximum insurable earnings under the Employment Insurance Program.

### **Does Employment Standards run this program?**

No, the program is run by the Government of Canada and by the bankruptcy trustees and receivers.

### **Where can I find more information?**

Service Canada runs the program. You can contact them at:

- Website: [www.servicecanada.gc.ca/en/sc/wepp/index.shtml](http://www.servicecanada.gc.ca/en/sc/wepp/index.shtml)
- Phone: 1-866-683-6516
- Address: 391 York Avenue, Winnipeg Manitoba.

Or to find a Service Canada office close to you visit:

[http://www1.servicecanada.gc.ca/en/gateways/where\\_you\\_live/menu.shtml](http://www1.servicecanada.gc.ca/en/gateways/where_you_live/menu.shtml)

### **Should I contact Employment Standards if my employer declares bankruptcy?**

Yes, employees who have lost their jobs or have not been paid because an employer has closed or declared bankruptcy should file a claim with Employment Standards. Claims must be filed within 6 months of the last day worked for the employer.

## **What constitutes a child performer?**

Anyone under the age of 17 who performs as an actor, extra, musician, singer, dancer, entertainer, or a model promoting an idea or service.

## **Why do child performers need a permit?**

The permit system gives parents/guardians, the talent agency, and the Employment Standards Branch a chance to make sure the work is done in socially appropriate settings, with the right supervision, and does not affect the health, safety or wellbeing of the child.

The permit system also allows the Province to confirm the agency is licensed, and to introduce the "Code of Conduct for Working with Child Performers" that must be followed.

## **How do I apply for a Child Performer Permit?**

An application form can be found on the web site at [www.manitoba.ca/labour/standards/forms.html](http://www.manitoba.ca/labour/standards/forms.html) or by contacting the Employment Standards Branch. The completed form can be taken, mailed, or faxed to the Employment Standards Branch office.

The Child Performer Permit application will not proceed unless the talent agency promoting the child is licensed with Employment Standards.

## **How much does a Child Performer Permit cost?**

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).

## **When do I apply for a child performer permit?**

Child performers must have approval from the Employment Standards Branch before they can be promoted by a talent agency. Once an agency decides it will promote a child, the application can be filled out. When the application has been approved the applicant and talent agency are each mailed a copy of the permit and work may begin.

## **What kind of information is required to apply for child performer permit?**

The following information is required:

- name, age, address, contact information of the child and the talent agency
- signatures of the child's parent or guardian and a representative of the talent agency

## **Are there restrictions for a child performer?**

The Child Performer Permit will have terms and conditions. Some will be similar to the protections for young workers under *The Employment Standards Code*.

For example:

- During a school week, a child under 17 years old can only work 20 hours or less.
- During vacations like Christmas and summer, it may be possible to work more.

Along with the permit, the applicant and the talent agency will receive a "Code of Conduct for Working with Child Performers", which outlines acceptable and unacceptable behaviour for those working within the child talent industry.

## **What is the purpose of the "Code of Conduct for Working with Child Performers"?**

The 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 from those who see the industry as a way to get access to children for the purpose of exploitation.

The code of conduct will be included with the licences and Child Performer Permits along with information on the signs of abuse and what to do if you suspect that abuse may be occurring. Anyone seeking a licence to work with child performers will be required to follow the code of conduct.

## **What is required by the "Code of Conduct for Working with Child Performers"?**

Talent agencies promoting child performers must conduct themselves appropriately and take seriously their obligation to ensure all people working with children act safely and appropriately.

Agencies cannot substitute for a parent's or guardian's ability to watch their children, and their children's work environment, for signs of abuse or misconduct. Parents/guardians must be familiar with the code of conduct and the activities of their children who work as performers. They need to understand the risk of abuse and they must be present at the job location or readily available to their children when they are working as performers. Parents/guardians must be prepared to take action in reporting anyone who does not follow the code.

For more information read the [Code of Conduct for Working with Child Performers](#) and [Child Sexual Abuse: it is your business](#).

## **When can work with a child performer begin?**

A recruiter and a talent agency must first receive their licence. A child performer may start work with a licensed agency once he or she receives the Child Performer Permit.

## **What happens to the permit if a child performer changes agencies?**

Permits are given one time per child, per agency and are valid as long as the child works with that talent agency (or until the child turns 17). If the agency changes, the child and the new agency need a new permit.

## **How are child performers protected?**

The Employment Standards Branch will conduct inspections and investigations and background checks to make sure the people working with child performers are reputable, conduct themselves appropriately, and take seriously their obligation to ensure child safety.

If it is discovered a person or business contravened the legislation, or did not abide by the "Code of Conduct for Working with Child Performers", the Director of Employment Standards has the ability to refuse, suspend or revoke a licence or permit, and will take whatever action is necessary to protect a child's interest.

## **What can parents/guardians do to protect their child from exploitation in the talent industry?**

Unscrupulous people prey on children with the promise of glamorous lifestyles, travel and money. If your child is approached in a mall, invited to a photo-shoot, or told at a talent search fair that they have the potential to become the next top model, you should be very cautious. The age of models has been decreasing steadily making these children (star-struck and hopeful) extremely vulnerable to people who use the industry to gain access to children.

1. If you or your child is approached by someone offering opportunities in the talent industry, check the web site at [www.manitoba.ca/labour/standards](http://www.manitoba.ca/labour/standards) to be certain the person is licensed.
2. Be familiar with the "Code of Conduct for Working with Child Performers" and know the risks.
3. Be present at the job location or readily available to your child when they are working as performers.
4. Watch your child, and his or her work environment, for signs of abuse or misconduct.
5. Take action in reporting anyone who does not follow the code of conduct.
6. If you are asked to pay fees related to seeking or finding work for the child performer, contact the Employment Standards Branch to discuss the matter.

## **Who do I contact to report suspicion of abuse or misconduct?**

If you have suspicion, based on reasonable grounds, to believe a child is in need of protection call 1-866-345-9241.

## **Is a licence required to work with child performers in Manitoba?**

Yes, talent agencies and businesses engaged in child performer recruitment must have a licence from the Employment Standards Branch before they can promote, audition, scout or recruit a child performer.

A child under the age of 17, who will be promoted by a talent agency, must have a Child Performer Permit from the Employment Standards Branch.

The offence of operating without a licence or contravening the legislation is subject to fines as high as \$25,000.00 – \$50,000.00.

## **Why protect child performers?**

- Children in the talent industry are not adequately protected from sexual exploitation by agencies, recruiters, photographers, and clients that often prey on their hopes and desires
- Practices that were normalized for the treatment of adults are under increased scrutiny as the public realizes the industry is sexually exploiting young children
- The average age of fashion models has steadily decreased – now commonly 12–16 years old
- Media reports worldwide link the trafficking and exploitation of women and children to the talent industry
- Canada is one of the top exporters of models to other countries, including a rising number of Manitoba children
- Thousands of Manitoba children, primarily girls, are trying to break into the business

## **Are there specific conditions for conducting recruiting activities in Manitoba?**

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

- written notice of the date, time and location
- a copy of all advertising that will be used for promotion

## **How do I apply for a licence ?**

An application form can be found on the web site at [www.manitoba.ca/labour/standards/forms.html](http://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?**

No, but consideration 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.

## **How much does a licence cost?**

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

## **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 child performers work with an unlicensed talent agency or recruiter?**

There is only one instance when a child performer may work with a business that is not licensed by Employment Standards: if the child is a member of the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) and is performing work at a workplace where ACTRA is the child's bargaining agent.

No other person or business can legally promote child performers in Manitoba without a valid licence from the Employment Standards Branch.

## **Can fees be charged to a child performer?**

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.

When dealing with legitimate agencies and recruiters:

- they will charge their clients, not the child performer they are promoting
- they will only recommend other services, such as photography and training, that are actually needed
- where to get other services will be a choice of the child and his or her parent/guardian
- who provides the other services will not be a condition of the agency promoting the child

## **What fees can be charged by a photographer, instructor, or other person offering services in the talent industry?**

*The Worker Recruitment and Protection Act* does not regulate the business of talent industry services. What the Act does regulate is the business of talent agencies and child performer recruitment.

## **Who pays the fees associated with photography, training or instruction, etc?**

If these other services are required, where to get the services is a choice of the child and his or her parent/guardian, and who provides the services must not be a condition of the agency promoting the child. The

fees are the responsibility of the child or his/her parent/guardian.

## **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 licence or registration.

## **What records must I keep as a licensee operating a talent agency business or engaged in child performer recruitment?**

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

- a copy of each contract/agreement entered into related to child performers
- a copy of the Child Performer Permit, where applicable

## **Can I appeal?**

Applicants can appeal a refusal, cancellation 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.

## **Is a licence required to work with child performers in Manitoba?**

Talent agencies and businesses engaged in child performer recruitment must have a licence from the Employment Standards Branch before they can promote, audition, scout or recruit a child performer.

A child under the age of 17, who will be promoted by a talent agency, must have a Child Performer Permit from the Employment Standards Branch.

The offence of operating without a licence or contravening the legislation is subject to fines as high as \$25,000.00 – \$50,000.00.

## **Are child performers protected by existing laws?**

Yes, *The Worker Recruitment and Protection Act* compliments the work of law enforcement and child protection authorities in dealing with child sexual exploitation by clearly defining acceptable and unacceptable practices for working with children in the talent industry. The Act helps parents/guardians and agencies recognize and prevent the potential for exploitation before it happens.

Parents/guardians and agencies involved with child performers are sent information packages, highlighting their shared responsibilities in protecting children. The information will identify how to recognize the signs of abuse and outline the proper procedures for reporting situations where abuse may be occurring.

## **How do I know if someone is licensed?**

The only way to know for sure is to check the web site at [www.manitoba.ca/labour/standards](http://www.manitoba.ca/labour/standards) or by contacting the Employment Standards Branch. The names of all people or companies holding a valid licence will be posted on our web site. If they are not on the list, they are not licensed.

## **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](http://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.

## **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.

## **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.

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