

Frequently Asked Questions 1000 – 1099

Can employers charge fees to the worker?

No, employers cannot charge workers or recoup recruitment costs.

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

The *Worker Recruitment and Protection Act* does not regulate the business of immigration assistance. What the Act does regulate is the business of Employment Agencies and foreign worker recruitment.

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 (directly or indirectly) to the recruitment activity.

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

No. A licensee can never receive any money (directly or indirectly), or any other benefit, from a worker they assist with employment. Therefore, 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

How are workers protected from being charged fees?

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 \$25,000.00 – \$50,000.00. Directors and officers of a corporation will also be subject to a \$25,000.00 fine. If an

employer is involved, their recruitment registration will be cancelled.

How many people does the licence cover?

A licence to recruit foreign workers is an individual licence that applies only to the applicant. It is not transferable.

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

Complete and accurate financial operations records 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 Opinion, and contract/agreements entered into related to each foreign worker

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.

How much does a foreign worker recruitment licence cost?

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

What is the process for employer registration?

Starting April 1, 2009, employers will be able to download a [registration form](#) from the Employment Standards website. Employers will be required to provide information about their company and the types of positions they are recruiting. They will also need to provide information about the third-party agencies and individuals that will be involved in the recruitment process.

The immigration application of the foreign worker will not proceed unless 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. An employer must register before each application for a Labour Market Opinion or when they make a job offer as part of the Manitoba Provincial Nominee Program application process.

Can I use a third party to recruit foreign workers?

Yes, provided the third party is licensed as a foreign worker recruiter by the Employment Standards Branch, or is exempt from the legislation.

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 as part of a recruitment process.

What is the process for recruiting foreign workers?

For more information about recruiting foreign workers, please visit the Immigration and Multiculturalism Division's web site at www.immigratemanitoba.com or the Government of Canada's Temporary Foreign Worker Program web site at <http://www.hrsdc.gc.ca/eng/workplaceskills/foreignworkers/index.html>

For more information contact the Employer Registration Unit:

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

Fax: 204-948-2882

E-mail: Employmentstandards@gov.mb.ca

Website: www.manitoba.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.

Licenses 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. If they are not on the list, they are not licensed. You can also contact the Employment Standards Branch for this information.

What if I don't register before recruiting internationally?

Employers, who submit a Labour Market Opinion 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 \$25,000.00 – \$50,000.00.

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 Opinion, even if the worker agrees. Employment Standards will enforce the negotiated rate of pay and benefits as the minimum standards.

If I hire a temporary foreign worker and need to lay them off, what happens?

If you are laying off a temporary foreign worker, please contact the Employment Standards Division to discuss what steps should be taken to inform and support the worker. You should also notify Service Canada and Citizenship and Immigration Canada.

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

The registration process requires employers 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. You should also notify Service Canada and Citizenship and Immigration Canada.

What records must I keep as an employer 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 Opinion and all contract/agreements entered into with foreign workers and recruiters

How does an employer protect themselves from unscrupulous recruiters when recruiting foreign workers?

1. If you are contacted by someone offering to find foreign workers for your company, check the web site at www.manitoba.ca/labour/standards to make certain the person is licensed.
2. If you are contacted by a foreign worker seeking a job, ensure there is not an unlicensed recruiter involved.
3. Invest in the process for selecting a foreign worker to help lower chances for a third-party to exploit workers
4. Be aware that it contravenes the Act for an Immigration lawyer or consultant to charge a worker a fee and then seek or find them employment.
5. If you are solicited by an unlicensed recruiter contact the Employment Standards, Employer Registration Unit for assistance.

Date Published: August 17, 2012