

# CHANGES TO THE TEMPORARY FOREIGN WORKER PROGRAM: A GUIDE FOR MIGRANT WORKERS IN PEI

July 2014

By Cooper Institute, adapted from the Migrant Workers Alliance for Change

This guide will help migrant workers and advocates understand how these recent changes to the Temporary Foreign Worker (TFW) Program announced on June 20th, 2014 will impact them. This is not legal advice, and all the information should be double checked as new changes are made.

These changes are not good for migrant workers, so it is important that we build our ability to advocate for justice. If you want to do something on this issue, get in touch with **Cooper Institute** in PEI, or contact a Canadian group like **Migrante Canada** or **Migrant Workers Alliance for Change**.

## MAIN CHANGES TO THE TFW PROGRAM:

- The Labour Market Opinion (LMO) is now called the Labour Market Impact Assessment (LMIA). Each LMIA will cost employers \$1,000.
- There are no longer “High Skilled” and “Low Skilled” categories. Under the new rules, there are only “High-wage” and “Low-Wage” workers. In Prince Edward Island, if you make less than \$17.26/hour, you are considered “Low-Wage.”
- Employers will not be allowed to hire more than 30% “low wage” TFWs in their business, if there are 10 or more employees. This will be reduced to 20% on July 1st, 2015, and 10% on July 1st, 2016.
- LMIAs can only last up to one year.
- An employer in PEI cannot get an LMIA for many jobs in Accommodation, Food Services, and Retail Trade sectors in PEI.
- More Inspections
- Reduction in the amount of time TFWs are allowed to work in Canada

## SOME WORKERS ARE EXEMPT FROM SOME CHANGES:

- *Live-in Caregivers* - the rules remain the same.
- Workers in the *Seasonal Agricultural Workers Program* - the rules remain the same.
- Workers in the *Agricultural Stream of the Temporary Foreign Worker Program*, the rules remain the same except that the number of years you can stay in Canada will be reduced. The number of years you will be allowed to stay has not been announced yet.

## IMPACTS FOR CONTINUING TO WORK IN PEI:

- If you have a valid work permit - you can continue to work for your current employer for the remainder of your current work permit even, if the number of migrant workers at the worksite is higher than the new caps.
- Each LMIA will cost \$1000

- Your employer should not make you pay these new fees - please get in touch with the PEI **Employment Standards Branch** to file a complaint if you are being asked to pay.
- Employers in PEI will not be able to hire as many TFW because there are “caps” on the numbers of low-wage workers
- Changing to a new job will be harder:
  - A new employer must apply for an LMIA (previously called LMO) including the new rules and fees.
  - Because PEI has an unemployment rate above 6% LMIA will not be allowed for many jobs in Accommodation, Food Services, and Retail Trade.
  - You cannot get a new LMIA from a new employer who already has 30% or more foreign workers in their total workforce – unless they have less than 10 employees in total.
  - New LMIAs will only be issued for 1 year. This means you will have to renew your LMIA and work permit each year.
  - You might not be able to get a new LMIA if you have already been in Canada for a number of years. Unfortunately, we don't know what that number is - it has not been announced, and we don't know how this will affect people who are already here.

#### **CHANGES TO ENFORCEMENT:**

The Canadian government has announced changes aimed to stop 'abuse' of the TFWP. They have announced that there will be more inspections and more penalties for employers who are breaking the rules of the program.

- One out of four employers each year will be inspected by the federal government officials. The reason for the inspection could be: a random selection, because someone called in a complaint, or if the employer is known to have problems.
- If your employer is inspected: you might be interviewed by federal Employment and Social Development Canada (ESDC) inspectors or Canada Border Services Agency (CBSA) officials. They may ask you to show documents proving you are allowed to work there.
- If you will be interviewed, try and speak to someone who understands that your labour & employment rights are tied to, and impact, your limited ability to stay and work in Canada. If you can't do so before the interview, try and do it afterwards. You can contact **CLIA**, **PEIANC**, or **Cooper Institute** through the contact information at the end of this guide.
- If an employer is found to be violating the rules of the TFW Program, the employer's LMIA could be “suspended” or “revoked.”
  - If the LMIA is “suspended,” the work permits of the are still valid, but cannot be renewed.
  - If the LMIA is “revoked,” the work permits are also cancelled.

The government has not said what will happen to workers affected by canceled LMIAs.

## Know the Difference between Federal and Provincial officials:

### Federal Government officials:

- Can affect your LMIA and work permit.
- Work for the Government of Canada
- Include officials from: *Citizenship and Immigration Canada (CIC)*, *Employment and Social Development Canada (ESDC)*, and *Canadian Border Services Agency (CBSA)*.

### Provincial Government Ministries:

- Cannot affect your LMIA and work permit.
- Work under the Government of PEI
- Include officials from departments including: *Public Health*, ***Employment Standards***, *Labour and Industrial Relations*, or *Innovation*

It may happen that employees of provincial divisions such as the **PEI Employment Standards Branch**, Health and Safety, or Environmental Health come to your work place. You may ask these officials whether they work for the *federal* or *provincial* government. Feel free to talk to officials from a *provincial* government department about any problems that you may have.

In the recent announcement, the Federal government said that protecting migrant workers in the areas of labour, recruitment agencies, and health is the job of the PEI government. PEI does not have any special rules protecting migrant workers or limiting recruitment agencies.

## WHO TO CONTACT:



### Employment Standards Branch

This is a branch of the PEI Government that manages the Laws that employers must follow. To get information about the Employment Standards Act you can call them or visit their website. Many sections of this Act do not apply to farm workers. You can contact them to ask questions about PEI's laws concerning work conditions and your pay. You can call their office, or you can arrange for a representative to meet with you at one of the government offices around PEI. Their

services are confidential, so no one will know that you talked to them. If your employer is breaking the rules of the Employment Standards Act, you can decide to file a formal complaint. If a hearing is held, they can arrange for a translator to be present.

Phone (Free): 1 (800) 333-4362 Website: [www.gov.pe.ca/labour/](http://www.gov.pe.ca/labour/) (click on "Employment Standards")



### Community Legal Information Association (CLIA)

This organization is the place to go if you need information about the law. They like to help and they can refer you to other services. They have information about many subjects: women's rights, employment law, renting, abuse, and more information is on their website. They have a service that can help you speak to a lawyer. They will help you even if you do not have status in Canada. They are confidential, so no one

will know that you contacted them, and you can email them, visit their office in Charlottetown, or call their toll-free phone line.

Phone (Free): 1 (800) 240-9798

Email: [clia@cliapei.ca](mailto:clia@cliapei.ca)

Website: [www.cliapei.ca](http://www.cliapei.ca)

Office: Royalty Centre, Room 111, 40 Enman Crescent, Charlottetown, PE



### Cooper Institute

This organization is a small, PEI, non-governmental organization. They work for social justice locally and globally. This includes the rights of Temporary Foreign Workers (TFWs) in PEI. The office of Cooper Institute is open Monday-Friday, 8am-5pm. If you call on the weekend or in the evening, leave a message and let them know how and when to contact you.

Phone Number: (902) 894-4573 Toll-free Free: 1 (877) 894-4573

Email: [cooperinstitute@eastlink.ca](mailto:cooperinstitute@eastlink.ca)

Website: [www.cooperinstitute.ca](http://www.cooperinstitute.ca)

Office: 81 Prince Street, Charlottetown, PEI



### PEI Association for Newcomers to Canada (PEI ANC)

This organisation now offers services for workers without PR. They can help by answering questions about the rules of the program, helping with extending work permits, and access to health care. Their settlement staff

know about applying for a new work permit, and helping a new employer to hire you. Everything is confidential.

Phone: (902) 628-6009 ext.

Email: [info@peianc.com](mailto:info@peianc.com)

Website: [www.peianc.com](http://www.peianc.com)

Address: 25 University Ave., Suite 400, Charlottetown, PEI



### Migrante Canada

This national organization is a Filipino Canadian group that was established as a chapter of Migrante International. They promote migrants' rights and dignity against all forms of discrimination,

exploitation and abuse in the work place and in the community and resist anti-migrant policies.

Strengthen unity among migrant and immigrant Filipinos and rally their families and advocates towards the upholding of migrants' rights for jobs, fair wages and recognition. They receive complaints, issues of migrant and immigrant Filipinos in Canada. With the help of our member organizations in different provinces, we strive to push for immediate action and refer them to appropriate service providers, legal services and government agencies. They bring public attention to the plight of Filipino migrants in Canada and the Philippines through different venues with the aim to get a broad public support and pro-migrant public awareness.

Phone (Free): **1-800-559-8092**

Email: [migrantcanada@gmail.com](mailto:migrantcanada@gmail.com)

Website: [migrantcanada.wix.com/migrantehome](http://migrantcanada.wix.com/migrantehome)



### Migrant Workers Alliance for Change

The Migrant Workers Alliance for Change is a coalition of national migrant worker groups, grassroots organizations, unions, faith groups, activists and researchers that have come together to fight for justice and dignity for migrant workers.

Email: [coordinator@migrantworkersalliance.org](mailto:coordinator@migrantworkersalliance.org)

Website: [www.migrantworkersalliance.org/](http://www.migrantworkersalliance.org/)