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International Mobility Program / Temporary Foreign Worker Program

Compliance Regime

December 15th 2015



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Purpose

To provide an overview of the compliance regime for Immigration, Refugees and Citizenship Canada's (IRCC) International Mobility Program.





Temporary Foreign Worker Program/International Mobility Program

- **In June 2014, the Temporary Foreign Worker Program was reorganized as two separate programs to reflect differences between program streams.**
- **International Mobility Program (IMP)** refers to foreign nationals who are exempt from the Labour Market Impact Assessment (LMIA) requirement due to the broad economic and cultural benefits they bring to Canada
 - IRCC has sole responsibility for the International Mobility Program
- **Temporary Foreign Worker Program (TFWP)** includes streams that require employers to obtain a LMIA, and seeks to address short-term labour shortages in the absence of available Canadians or permanent residents.
 - Employment and Social Development Canada (ESDC) lead with work permits issued by Immigration, Refugee and Citizenship (IRCC)





Compliance Regime: Effective December 1, 2015

What are potential consequences?

The new range of consequences is designed to promote compliance and provide greater proportionality by including:

- Warning letters (for minor violations);
- Administrative Monetary Penalties (AMPs);
- Bans of various lengths; and
- Publishing details about non-compliant employers.

Previously, penalties for program abuse were a two-year ban for all offences and publication of the employer name without details of non-compliance.





Inspections Process

- **There are three ways an employer could be selected for inspection:**
 - there is reason to suspect non-compliance, e.g. media, etc.
 - previous history of non-compliance; or
 - random selection.
- If selected for an inspection, employers are requested to submit documentation to justify their compliance with program conditions.
- During an inspection, an officer may also conduct employer site visits and interview foreign workers and Canadians (with their consent).





Compliance Continuum: The Inspection Process

Before an Inspection: If an employer submits a **Voluntary Disclosure** form about their non-compliance, later consequences may be reduced

Step 1: **IRCC sends Employer a letter to advise of inspection**

Step 2: For good faith/administrative type errors, regulations allow employers to make **justifications** to avoid a finding of non-compliance

Step 3: **Preliminary Finding** If the inspection finds a violation has been committed a letter is sent out identifying consequences

Step 4: Employers have a 30 day **Opportunity to Respond** with new information for review by officers to inform final determination

Step 5: **Final Determination** Sent to employer, this letter is the final and binding decision identifying the violation and consequence

Step 6: **Employer Name published**, penalties issued, and ban imposed





Voluntary Disclosure

- To encourage self-monitoring, if employers find they have violated program conditions, they may submit a voluntary disclosure form to IRCC which outlines the non-compliance and employer response
- If this voluntary disclosure is accepted, if the violation is identified in a future inspection, the employer would receive reduced consequences
- For a disclosure to be deemed “acceptable” it must be complete and voluntary (i.e. no other related inspection/enforcement action can be underway)





Administrative Monetary Penalties (AMPS)

- AMPs are a new type of consequence applied to employers found non-compliant with Program conditions following an inspection.
- The AMP amounts range from \$500 to \$100K, with the total amount not to exceed \$1M over a 1-year period, starting from the determination of non-compliance date.
- Employers who receive an AMP (no ban) will remain eligible to use the Programs if they pay promptly in full or follow a payment agreement.





Varied Bans

- Consequences for violations include ineligibility terms of 1, 2, 5, and 10 years or a permanent ban for egregious non-compliance.
- During the period of the ban, employers are ineligible to use both the TFWP and the IMP; i.e., all LMIA and Work Permit applications will be suspended or prevented from being processed.
- In cases where an employer has been banned, work permit revocation from affected foreign nationals is also possible.

AMPS/Bans are accumulated through a points-based system; please refer to the handout for guidance on how points will be calculated.





Publication of Names

- To provide **transparency for foreign nationals**, employers found in non-compliance will have the record of the violation published online for an indefinite period.
- Employers that are banned from the program will be distinguished from those who are eligible (e.g. an archive section).
- Where violations have resulted in only a warning letter, an employer's name will not be published.





Questions?

Online Help Centre

www.cic.gc.ca/english/helpcentre/index-featured-int.asp

Call Centre

1-888-242-2100

