

A world map with a red and white Canadian flag overlaying the North American continent. The map is rendered in a dark, textured style.

GREEN
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AN IMMIGRATION LAW FIRM

The Cost of Non-Compliance:
Administrative Monetary Penalties

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Type A Violations

Item	Column 1 Provision	Column 2 Short-form Description	Column 3 Classification
1.	209.2(1)(b) (i)	Be able to demonstrate that any information provided in respect of a work permit application was accurate during a period of six years, beginning on the first day of the foreign national's employment	Type A
2.	209.2(1)(b) (ii) and 209.3(1)(c) (ii)	Retain any document that relates to compliance with cited conditions during a period of six years, beginning on the first day of the foreign national's employment	Type A
3.	209.3(1)(a) (iii)(C)	For employers of a live-in caregiver: have sufficient financial resources to pay wages that were offered	Type A
4.	209.3(1)(c) (i)	Be able to demonstrate that any information provided for the assessment was accurate during a period of six years, beginning on the first day of the foreign national's employment	Type A
5.	209.4(1)(a)	Report at any time and place specified to answer questions and provide documents	Type A
6.	209.4(1)(b)	Provide required documents	Type A
7.	209.4(1)(c)	Attend any inspection, unless the employer was not notified, give all reasonable assistance to the person conducting the inspection and provide that person with any required document or information	Type A

Type B Violations

Item	Column 1 Provision	Column 2 Short-form Description	Column 3 Classification
8.	209.2(1)(a) (ii) and 209.3(1)(a) (ii)	Comply with the federal and provincial laws that regulate employment and the recruiting of employees in the province in which the foreign national works	Type B
9.	209.2(1)(a) (iii) and 209.3(1)(a) (iv)	Provide the foreign national with employment in the same occupation and substantially the same, but not less favourable, wages and working conditions as outlined in the foreign national's offer of employment	Type B
10.	209.3(1)(a) (iii)(A)	For employers of a live-in caregiver: ensure that foreign national resides in a private household in Canada and provides child care, senior home support care or care of a disabled person in that household without supervision	Type B
11.	209.3(1)(b) (i)	Ensure that the employment of the foreign national will result in direct job creation or retention for Canadian citizens or permanent residents, if that was a factor that led to the issuance of the work permit	Type B
12.	209.3(1)(b) (ii)	Ensure that the employment of the foreign national will result in the development or transfer of skills and knowledge for the benefit of Canadian citizens or permanent residents, if that was a factor that led to the issuance of the work permit	Type B
13.	209.3(1)(b) (iii)	Hire or train Canadian citizens or permanent residents, if that was a factor that led to the issuance of the work permit	Type B
14.	209.3(1)(b) (iv)	Make reasonable efforts to hire or train Canadian citizens or permanent residents, if that was a factor that led to the issuance of the work permit	Type B

Type C Violations

Item	Column 1 Provision	Column 2 Short-form Description	Column 3 Classification
15.	209.2(1)(a)(i) and 209.3(1) (a)(i)	Be actively engaged in the business in which the offer of employment was made, unless the offer was made for employment as a live-in caregiver	Type C
16.	209.3(1)(a) (iii)(B)	For employers of a live-in caregiver: provide the foreign national with adequate furnished private accommodation in the household	Type C
17.	209.2(1)(a) (iv) and 209.3(1)(a) (v)	Make reasonable efforts to provide a workplace that is free of abuse within the meaning of paragraph 72.1(7)(a) of these Regulations	Type C

The AMP Matrix

SEVERITY OF THE VIOLATION

Column 1		Column 2
Item	Criterion	Points
1.	The employer derived competitive or economic benefit from the violation	0 to 6
2.	The violation involved abuse of a foreign national (physical, psychological, sexual or financial)	0 to 10
3.	The violation negatively affected the Canadian labour market or the Canadian economy	0 to 6
4.	The employer did not make reasonable efforts to minimize or remediate the effects of the violation	0 to 3
5.	The employer did not make reasonable efforts to prevent recurrence of the violation	0 to 3

COMPLIANCE HISTORY

Column 1		Column 2
Item	Criterion	Points
1.	For Type A and Type B violations — first violation	1
2.	For Type A violations — second or subsequent violation	2
3.	For Type B violations — second violation	2
4.	For Type C violations — first violation	2
5.	For Type B violations — third or subsequent violation	3
6.	For Type C violations — second violation	3
7.	For Type C violations — third or subsequent violation	4

The Immigration and Refugee Protection Act: Regulations amending the Immigration and Refugee Protection regulations. (2015). *Canada Gazette Part II*, 149(13). Retrieved from: <http://gazette.gc.ca/rp-pr/p2/2015/2015-07-01/html/sor-dors144-eng.php>

The AMP Matrix

ADMINISTRATIVE MONETARY PENALTY AMOUNTS

Item	Column 1	Column 2		Column 3		Column 4	
	Total Number of Points	Type A Violation		Type B Violation		Type C Violation	
		Individual or Small Business (\$)	Large Business (\$)	Individual or Small Business (\$)	Large Business (\$)	Individual or Small Business (\$)	Large Business (\$)
1.	0 or 1	none	none	none	none	none	none
2.	2	500	750	750	1,000	1,000	2,000
3.	3	750	1,000	1,250	2,000	5,000	10,000
4.	4	1,000	2,000	3,000	7,000	10,000	20,000
5.	5	4,000	6,000	7,000	12,000	15,000	30,000
6.	6	8,000	10,000	12,000	20,000	20,000	40,000
7.	7	12,000	20,000	20,000	30,000	35,000	50,000
8.	8	20,000	30,000	35,000	45,000	45,000	60,000
9.	9 or 10	30,000	45,000	50,000	60,000	60,000	70,000
10.	11 or 12	40,000	60,000	60,000	70,000	70,000	80,000
11.	13 or 14	50,000	70,000	70,000	80,000	80,000	90,000
12.	15 or more	100,000	100,000	100,000	100,000	100,000	100,000

The Immigration and Refugee Protection Act: Regulations amending the Immigration and Refugee Protection regulations. (2015). *Canada Gazette Part II*. 149(13). Retrieved from: <http://gazette.gc.ca/rp-pr/p2/2015/2015-07-01/html/sor-dors144-eng.php>

The AMP Matrix

PERIOD OF INELIGIBILITY

	Column 1	Column 2	Column 3	Column 4
Item	Total Number of Points	Type A Violation	Type B Violation	Type C Violation
1.	0 to 5	none	none	none
2.	6	none	none	1 year
3.	7	none	1 year	2 years
4.	8	1 year	2 years	5 years
5.	9 or 10	2 years	5 years	10 years
6.	11 or 12	5 years	10 years	10 years
7.	13 or 14	10 years	10 years	10 years
8.	15 or more	permanent	permanent	permanent

The Immigration and Refugee Protection Act: Regulations amending the Immigration and Refugee Protection regulations. (2015). *Canada Gazette Part II*. 149(13). Retrieved from: <http://gazette.gc.ca/rp-pr/p2/2015/2015-07-01/html/sor-dors144-eng.php>



Small Business – Failure to Maintain Records

Small business employing foreign nationals has failed to keep proper records related to their efforts to train and development Canadian employees, per their LMIA

Type A Violations

- Did not retain documents
- Unable to provide required documents

Type B Violations

- Unable to demonstrate that employment of foreign national will result in development or transfer of skill and knowledge for the benefit of Canadians or Permanent Residents

Total points: 1-7 points; low severity; AMP of \$12,000/employee and possible ban of 1 year



Promoting a Foreign National

Large employer promotes foreign national, assigning greater responsibility and awarding substantial raise

Type B Violations

- Employment in different occupation than outlined in offer
- Working conditions not substantially the same
- Pay not substantially the same

No history of non-compliance, but employer did benefit financially from violation through improved performance and results

Total Points: 1-7 points / violation

AMP of \$0-\$30,000 *per violation (max \$90,000)*

May be ineligible for 1 year if highest penalty imposed

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Reduction in Hours / Workplace Violence

Large employer with high number of foreign nationals. Drop in price of oil results in cutting of hours for foreign nationals; Complaint triggers inspection. Interviews reveal that foreign nationals face regular harassment and, on one occasion, violence, from co-workers. No records kept of incident.

Type A Violation: unable to provide documentation (1-7 points)

Type B Violation: changes to working conditions and pay (1-7 points)

Type C Violation: did not make reasonable effort to provide workplace free of abuse (2-12 points)

Total AMP of up to \$170,000 per affected employee and ban of 2 – 10 years

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