The Foreign Worker Recruitment and Immigration Services Regulations

Repealed
by Saskatchewan Regulations 70/2024
(effective September 1, 2024).

Formerly
Chapter F-18.1 Reg 1 (effective October 11, 2013) as amended by Saskatchewan Regulations 45/2016.

NOTE:
This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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Code of Conduct for Foreign Worker Recruiters

CHAPTER F-18.1 REG 1

The Foreign Worker Recruitment and Immigration Services Act

PART I
Preliminary Matters

Title

1 These regulations may be cited as *The Foreign Worker Recruitment and Immigration Services Regulations.*

Interpretation

2 In these regulations, **"Act"** means *The Foreign Worker Recruitment and Immigration Services Act*.

18 Oct 2013 cF-18.1 Reg 1 s2.

PART II
Licensing

Exempt family members

3(1) In this section, **"spouse"** means, with respect to a person:

(a) the legally married spouse of the person; or

(b) another person who is cohabiting with the person as spouses and has cohabited with the person as spouses continuously for a period of not less than one year.

(2) For the purposes of subsection 4(2) of the Act, **"a member of that person's family"** means the spouse of a person and any of the following with respect to the person or the person's spouse:

(a) a parent;

(b) a child;

(c) a brother or sister;

(d) an aunt or uncle;

(e) a niece or nephew;

(f) a first cousin;

(g) a grandparent.

(3) For the purposes of subsection (2), the relationships listed in clauses (2)(a) to (g) include step-family relationships.

18 Oct 2013 cF-18.1 Reg 1 s3.

Exemptions from licensing requirement

4(1) For the purposes of subclause 4(2)(a)(iv) of the Act, subsection 4(1) of the Act does not apply to a person who is acting on behalf of:

(a) a school regulated pursuant to *The Education Act, 1995*; or

(b) a designated learning institution within the meaning of the *Immigration and Refugee Protection Regulations*, being SOR/2002-227, that is a post-secondary learning institution designated by the Province of Saskatchewan for the purposes of those regulations when obtaining employment for international students who are studying at or have graduated from that institution.

(2) For the purposes of subclause 4(2)(a)(v) of the Act, subsection 4(1) of the Act does not apply to the following:

(a) a person acting on behalf of a union, but only with respect to workers that the union is bringing to work in Saskatchewan and only if the workers:

(i) are members of an affiliated union; and

(ii) will be represented by the union while they work in Saskatchewan;

(b) subject to subsection (3), a foreign worker recruiter or immigration consultant who, on the day on which these regulations come into force, is engaged in bringing foreign nationals to Saskatchewan.

(3) A foreign worker recruiter or immigration consultant mentioned in clause (2)(b) is exempted from subsection 4(1) of the Act:

(a) only if the foreign worker recruiter or immigration consultant applies for a licence on or after the day these regulations come into force and on or before December 13, 2013; and

(b) only until:

(i) the day the licence applied for is issued; or

(ii) the day the director informs the foreign worker recruiter or immigration consultant that the application for the licence is refused.

18 Oct 2013 cF-18.1 Reg 1 s4; 17 Jne 2016 SR 45/2016 s2.

Forfeiture of financial security

5(1) For the purposes of section 7 of the Act, financial security filed by a licensee is forfeited when:

(a) an order has been made by the director pursuant to subsection 46(2) of the Act, or by a court pursuant to subclause 40(4)(b)(ii) of the Act, directing the licensee to compensate a person;

(b) the order mentioned in clause (a) has become final by reason that the time for an appeal has expired or, if an appeal has been made, the appeal has been dismissed;

(c) the director:

(i) is satisfied that the licensee has failed to compensate the person in accordance with the order mentioned in clause (a) and that the financial security will be necessary to compensate the person; and

(ii) has served on the licensee 30 days' written notice that the financial security will be forfeited unless the licensee compensates the person in accordance with the order mentioned in clause (a); and

(d) the licensee or former licensee has failed to compensate the person in accordance with the order mentioned in clause (a) within 30 days after being served the written notice mentioned in clause (c).

(2) The director may pay any money realized pursuant to a forfeited financial security to any of the following on any conditions the director considers appropriate:

(a) the local registrar of the court in trust for any persons who may become judgment creditors of the licensee or former licensee for claims arising out of a contract for immigration services or recruitment services;

(b) any trustee, custodian, interim receiver, receiver or liquidator of the licensee or former licensee;

(c) any person that the director is satisfied is entitled to the money.

(3) The director shall pay any money not paid pursuant to subsection (2) to the following after the payment of any expenditures incurred by the director in connection with the realization on the financial security and the determination and settlement of valid claims:

(a) in the case of a bond, the surety or obligor under the bond;

(b) in the case of a letter of credit, the obligor under the letter of credit;

(c) in the case of any financial security other than that mentioned in clause (a) or (b), any person who the director is satisfied is entitled to the money.

18 Oct 2013 cF-18.1 Reg 1 s5.

Exempt employers

6(1) For the purposes of clause 14(2)(a) of the Act, subsection 14(1) of the Act does not apply with respect to employers who hire employees in any of the following classes:

(a) foreign nationals who are on open work permits;

(b) subject to subsection (2), foreign nationals in immigration classes that, pursuant to the *Immigration and Refugee Protection Act* (Canada) and the regulations made pursuant to that Act, are exempt from the requirement:

(i) to apply for a work permit; or

(ii) to obtain a labour market opinion from the Department of Employment and Social Development of the Government of Canada.

(2) Clause (1)(b) does not apply to a foreign national in any of the following occupational classes:

(a) an occupation that is exempt from the requirement to obtain a labour market opinion because there is an international agreement mentioned in clause 204(a) of the *Immigration and Refugee Protection Regulations* (Canada), being SOR/2002-227, that governs the work to be performed;

(b) clergy.

(3) For the purposes of clause 14(2)(a) of the Act, during the period commencing on the day on which these regulations come into force and ending on the day that is two years after that day, subsection 14(1) of the Act does not apply to an employer who, on the day on which these regulations come into force, is registered with the Saskatchewan Immigrant Nominee Program.

18 Oct 2013 cF-18.1 Reg 1 s6.

PART III
General

Contract requirements

7 For the purposes of clause 27(1)(f) of the Act, every written contract must include all of the following:

(a) a statement indicating that there is a prohibition against charging recruitment fees to foreign workers under Saskatchewan legislation;

(b) the payment schedule for the fees and expenses to be charged to the foreign national or the employer, as the case may be;

(c) the telephone number, mailing address and email address for the licensee and any employee, agent or contractor that may act on behalf of the licensee under the contract.

18 Oct 2013 cF-18.1 Reg 1 s7.

Record requirements

8(1) For the purposes of clause 31(1)(b) of the Act, every licensee and former licensee shall prepare and retain the following records:

(a) the name, occupation, residential address, rate of wages, telephone number, postal address and email address, if any, of every foreign national who is recruited;

(b) the name, telephone number, postal address and email address, if any, of every foreign national who receives immigration services;

(c) the name, telephone number, business address and email address, if any, of every employer for whom the licensee or former licensee has provided recruitment services;

(d) any contract that the licensee or former licensee has entered into with a foreign national or an employer for the purpose of providing recruitment services or immigration services;

(e) any expenses incurred by the licensee or former licensee in recruiting foreign nationals or providing foreign nationals with immigration services;

(f) the amount of money, if any, paid to the licensee or former licensee by an employer of the foreign national, the date of the payment and the reason for the payment;

(g) the amount of money, if any, paid to the licensee or former licensee by a foreign national, the date of the payment and the reason for the payment;

(h) copies of all applications to government agencies respecting:

(i) a foreign national seeking to enter Canada for the purpose of residing in or visiting Saskatchewan; or

(ii) an employer seeking to hire a foreign worker;

(i) copies of all decisions received from government agencies with respect to the applications mentioned in clause (h);

(j) copies of all correspondence sent to or received from a person respecting recruitment or immigration services provided by the licensee or former licensee.

(2) For the purposes of clause 31(1)(b) of the Act, every registered employer and former registered employer shall prepare and retain the following records:

(a) any contract that the registered employer or former registered employer has entered into with a foreign worker recruiter;

(b) any payments made to a foreign worker recruiter by the registered employer or former registered employer;

(c) job offers made to foreign nationals by the registered employer or former registered employer;

(d) contracts made with foreign nationals by the registered employer or former registered employer;

(e) any job application approvals involving the registered employer or former registered employer made under the Saskatchewan Immigrant Nominee Program;

(f) any information with respect to labour market opinions from the Department of Human Resources and Skills Development of the Government of Canada received by the registered employer or former registered employer pursuant to the *Immigration and Refugee Protection Regulations* (Canada), being SOR/2002-227;

(g) any work permit information received from the Government of Canada with respect to foreign nationals hired by the registered employer or former registered employer.

18 Oct 2013 cF-18.1 Reg 1 s8.

Sharing personal information

9 For the purposes of clause 32(f) of the Act, the director may provide information collected and obtained pursuant to the Act, including personal information, to a person or body if the director is satisfied that:

(a) the person or body:

(i) is responsible for regulating a group of persons in the conduct of any activity, trade, profession or calling in the jurisdiction in which the person or body fulfils its responsibility;

(ii) has the power to discipline the persons mentioned in subclause (i), including the power to do all of any of the following:

(A) to issue licences;

(B) to restrict or prohibit the carrying out the activity, trade, profession or calling;

(C) to impose penalties; and

(iii) is governed by an Act or other legislation of the jurisdiction in which the person or body fulfils its responsibility;

(b) the information relates to a person who is regulated by the person or body; and

(c) it is in the public interest to provide that information.

18 Oct 2013 cF-18.1 Reg 1 s9.

Service

10 In addition to the methods mentioned in subsection 54(1) of the Act, any notice, order or decision required to be given or served may be served:

(a) by email to the last email address provided to the director by the person to be served; or

(b) by facsimile transmission to the last facsimile transmission number provided to the director by the person to be served.

18 Oct 2013 cF-18.1 Reg 1 s10.

Code of conduct

11(1) The Code of Conduct for Foreign Worker Recruiters, as set out in the Appendix, is adopted for foreign worker recruiters.

(2) The Code of Professional Ethics of the Immigration Consultants of Canada Regulatory Council, dated June, 2012, as amended from time to time, is adopted as the Code of Conduct for immigration consultants.

18 Oct 2013 cF-18.1 Reg 1 s11.

PART IV
Coming into Force

Coming into force

12(1) Subject to subsection (2), these regulations come into force on the day on which section 1 of *The Foreign Worker Recruitment and Immigration Services Act* comes into force.

(2) If section 1 of *The Foreign Worker Recruitment and Immigration Services Act* comes into force before the day on which these regulations are filed with the Registrar of Regulations, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

18 Oct 2013 cF-18.1 Reg 1 s12.

Appendix

Code of Conduct for Foreign Worker Recruiters

[*Subsection 11(1)*]

Interpretation

1(1) In this code:

"Act" means *The Foreign Worker Recruitment and Immigration Services Act*;

"affiliate" means, with respect to a foreign worker recruiter, a person other than an agent, partner or employee of the foreign worker recruiter who has a business relationship with the foreign worker recruiter to provide services to or for the foreign worker recruiter that are related to the recruitment of foreign workers or the provision of immigration services;

"agent" means, with respect to a foreign worker recruiter, a person, other than an affiliate, partner or employee of the foreign worker recruiter, who is authorized by the foreign worker recruiter to act for the foreign worker recruiter on matters related to the recruitment of foreign workers or the provision of immigration services;

"employer" means a person who hires or recruits a foreign national and includes an agency that represents a group of persons who hire or recruit foreign nationals;

"partner" means, with respect to a foreign worker recruiter, a person other than an affiliate, agent or employee of the foreign worker recruiter who carries on the business of recruiting foreign workers in conjunction with the foreign worker recruiter with a view to profit;

"unlawful activity" means an act or omission that, at the time of the occurrence, is contrary to the laws of Canada, of Saskatchewan, of another province or territory of Canada, of another country or of a state within that country.

(2) This code is to be read subject to the Act and the regulations made pursuant to the Act.

Purpose of code

2 This code establishes standards of professional conduct for licensed foreign worker recruiters and provides guidance for their practice.

Application of code

3 This code applies to all licensed foreign worker recruiters.

Prohibitions

4 No licensed foreign worker recruiter shall:

(a) engage in any unlawful activity;

(b) provide advice or create false expectations that would lead a foreign national to divest assets, quit his or her job or relocate without certainty of the right to work in Canada;

(c) represent, either expressly or by implication, that services provided by the foreign worker recruiter are endorsed by the Government of Saskatchewan.

Professional responsibilities

5 Every licensed foreign worker recruiter shall:

(a) provide assistance and services in a fair, honest, open, timely and competent manner and only with respect to matters that the foreign worker recruiter is capable of handling;

(b) forward all communications addressed to or from a foreign national or the foreign national's potential employer without alteration or undue delay;

(c) hold in strict confidence all information related to a foreign national's job application, all other personal information related to the foreign national and all information respecting an employer's recruitment activities and not divulge that information unless authorized by the foreign national or the employer or required by law;

(d) provide truthful, accurate and complete information in all communication to a foreign national, his or her potential employer and any ministry or agency of the Government of Saskatchewan, any department or agency of the Government of Canada or department or agency of the government of another province or territory of Canada; and

(e) ensure, to the best of his or her ability, the authenticity of the documents and the truthfulness of the information provided to the minister.

Report of breach

6 Subject to the duty of confidentiality in clause 5(c), a licensed foreign worker recruiter shall report to the director any conduct that the recruiter reasonably believes is a contravention of the Act, the regulations made pursuant to the Act or this code.

Competence

7(1) For the purposes of this code, **"competence"** means having adequate skill, ability and knowledge to engage in the practice of being a foreign worker recruiter.

(2) A licensed foreign worker recruiter has a duty to be competent to perform any services undertaken for an employer in connection with recruiting a foreign national.

(3) A licensed foreign worker recruiter shall at all times use best efforts to adapt to changing laws, requirements, and standards.

Response to illegality

8 If a licensed foreign worker recruiter is employed or retained by a person to act in a matter the licensed foreign worker recruiter knows is dishonest, fraudulent, criminal or illegal with respect to that matter, the licensed foreign worker recruiter shall:

(a) advise the person that the proposed conduct would be dishonest or unlawful and should be stopped; and

(b) if the person, despite the advice, intends to pursue the proposed course of conduct, withdraw from acting in the matter.

Required action on discovery of error or omission

9 If a licensed foreign worker recruiter discovers, in connection with a matter for which the licensed foreign worker recruiter was retained, an error or omission that is or may be damaging to the employer or the foreign national and that cannot be readily rectified, the licensed foreign worker recruiter shall:

(a) promptly and fully inform the employer or foreign national of the error or omission, and, when so informing, make every reasonable effort to not prejudice any rights of indemnity that either of them may have under an insurance or clients' protection or indemnity plan or otherwise;

(b) recommend that the employer or foreign national obtain legal advice elsewhere concerning any rights the employer or foreign national may have arising from the error or omission; and

(c) advise the employer or foreign national that in the circumstances, the licensed foreign worker recruiter may no longer be able to act for the employer or foreign national.

Supervision of partners, affiliates, agents and employees

10 A licensed foreign worker recruiter is fully responsible for all work entrusted to his or her employees, partners, affiliates and agents.

Maintenance of contact information

11 A licensed foreign worker recruiter shall immediately notify the ministry and the employers and foreign nationals to whom the licensed foreign worker recruiter is providing recruiting services or with whom the licensed foreign worker recruiter is dealing of any changes in contact information, including the licensed foreign worker recruiter's home and business address, telephone number and email address.

Obligation to respond to ministry

12 A licensed foreign worker recruiter shall reply promptly to any communication from the director or the minister.

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