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## EMPLOYERS MUST NOW REPORT ON REJECTED CANADIAN AND PERMANENT RESIDENT APPLICANTS

This is **Part 3** of the seven part series, a **Guide to Major Changes to Canada's Temporary Foreign Worker Program**.

Last week I covered the transition plan including the details of the application form, what each plan must include and exemptions. Visit [Part 2 - The Transition Plan for High-Wage TFWs](#) if you missed it. This week I'll cover another major change in the LMIAs process where employers will now have to provide information on the number of Canadians/permanent residents who responded to the job postings.

### **This Week: Employers Must Now Report on Rejected Canadian and Permanent Resident Applicants**

#### **LMIAs will be Refused for Certain Occupations in Areas of High Unemployment**

LMIAs will not be processed in specific occupations identified under North American Industry Classification System as Accommodations & Food Service or Retail Sales (NAIC 72, 44, 45) in economic regions with an unemployment rate at or above 6%.

In particular, employers will not be granted LMIAs for the following occupations in areas of unemployment higher than 6%:

1. Food counter attendants, kitchen helpers and related occupations
2. Light duty cleaners
3. Cashiers
4. Grocery clerks and store shelf stockers



The overhaul of Canada's Temporary Foreign Worker Program may impact employers' ability to hire TFWs.

**Can't wait until next week for the rest of the changes?**

Download Reis' complete **Guide to Major Changes to Canada's**

5. Construction trades helpers and labourers
6. Landscaping and grounds maintenance labourers
7. Other attendants in accommodation and travel
8. Janitors, caretakers and building superintendents
9. Specialized cleaners
10. Security guards and related occupations

### **Employers Must Report on the Number of Canadians/Permanent Residents Who Apply for the Job**

Another major change in the LMIA process means employers will now have to provide information on the number of Canadians/permanent residents who responded to the job postings.

On each LMIA application, employers must provide this specific information:

1. The number of applications/resumes received from Canadians/permanent residents
2. The number of Canadian/permanent resident applicants interviewed
3. The number of Canadians/permanent residents offered the position
4. The number of Canadians/permanent residents hired
5. The number of job offers declined by Canadian/permanent resident applicants
6. The number of Canadian/permanent resident applicants who were not qualified for the job

For each unsuitable Canadian/permanent resident applicant, an explanation as to why the candidate was unsuitable for the position. The challenge in being able to answer these questions lies in prohibitions found in human rights legislation. In Manitoba, The Human Rights Code typically prohibits employers from asking questions that would require a job applicant to disclose certain characteristics including ancestry, ethnicity and national origin. In a number of other Canadian jurisdictions, similar rules apply.

As a result, it is important for employers to be aware of what they can and cannot ask job applicants for the purposes of answering these questions to avoid claims of discrimination.

### **Attesting That Canadians Will Not be Laid Off or Have Their Hours Reduced Once a TFW is Hired**

The new rules also include an attestation in which employers must declare that the employment of TFWs will not lead to job loss or reduction in work hours for Canadians or permanent residents.

Failure to live up to this attestation could result in significant negative penalties including finding the employer made a misrepresentation on an application.

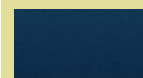
*This article is prepared for general information purposes only and is intended to provide information for readers of Aikins Law Immigration Newsletter. The contents should not be viewed as legal advice or opinion.*

### **Temporary Foreign Worker Program now.**

First name \*

Last name \*

Email address \*



*Reis is a partner with Aikins Law and practices in the area of immigration law. His direct line is (204) 957.4640. If you would like to know more about Reis, follow him on [Twitter](#) or connect with him on [LinkedIn](#). Reach him at [rrp@aikins.com](mailto:rrp@aikins.com).*

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