

Foreign workers face being sent home over work permit snarl

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Toronto immigration consultant Cobus Kriek says many temporary foreign workers could lose their work status in Canada and face removal as immigration officials refuse renewals of their work permits because Service Canada isn't ready to issue the necessary labour market opinion.

Thousands of temporary foreign workers are at risk of losing their permission to work in Canada and being sent home — ironically, just as Ottawa is fast-tracking work permit processing.

Since November, many foreigners working in skilled jobs and trades in Canada have had their renewal applications rejected. Some are being forced to collect wages under the table while trying to restore their work status.

Legal experts blame the chaos on two government departments being badly out of sync in processing the documents required to get a temporary work permit.

“It is a colossal headache,” said David Coombes, an immigration consultant based in Victoria, B.C., who has had seven such refusals recently. “This is unfair to the employers and especially to the workers, who will have to go home.”

A foreign worker needs two documents to work legally in Canada. The first is a Labour Market Opinion (LMO) from Service Canada, which assesses whether a foreign worker is needed. The second is Citizenship and Immigration Canada, charged with processing the work permit application, which involves verifying the job as well as medical and criminal checks.

In 2006, during an economic boom, Ottawa decided to speed up approvals by processing LMO forms and work permits simultaneously.

Immigration officials were to complete work permits pending a decision from Service Canada. The result was that the number of foreign nationals with temporary work permits grew exponentially, from 160,854 in 2006 to 282,771 in 2010.

But lawyers and consultants say it's taking Service Canada a lot longer in recent months to process LMOs, while Immigration is rendering its work permit decisions in record time — part of a push, some say, to clear the backlog to make way for a new data management system coming in spring.

According to Service Canada, the average processing time for an LMO is up from 15 business days a year ago to 22 days — a figure that's widely disputed.

Cobus Kriek, a Toronto-based immigration consultant, said it's taking up to 12 weeks now to get an LMO for his clients.

"This is a massive crisis for both employers and workers," said Kriek, who has had two work permit refusals on the basis that an LMO was not ready.

Kriek said foreign workers can continue working legally under what is known as "implied status" if their renewal application is filed before the work permit expires. But once the renewal has been refused, they're not allowed to work. Employers have to submit a new application, at \$150 per worker, hoping the LMO will come through on time, said Kriek.

A mining company in Alberta that employs more than 500 people complained it has taken 21 weeks to obtain a work permit for their foreign workers.

"We are in the process of completing major expansions, but we cannot get the foreign workers here fast enough," the company, which asked not to be identified in this story, said in a letter to Immigration Minister Jason Kenney.

Immigration said it takes 40 days to process work permits with an existing employer, compared with 86 days a year ago.

"It is important that the employer applies for a new LMO before the expiration of their employee's work permit," said immigration spokesperson Nancy Caron.

"This is not a change in policy or procedure and would help to ensure that the LMO is issued in time for CIC to process the work permit application."

But critics complain that Service Canada does not post the LMO processing time online and employers are unaware of the long delay.

Service Canada told the *Star* some regions tend to experience more delay due to the volume of applications. Other delays are caused by missing information — for instance, proof from the employer that the company has tried to recruit in Canada — or a failure to fully complete and sign the application.

Also, a more "rigorous LMO assessment process" has been in place since last April to improve the integrity of the program and better protect foreign workers from abuse. The department says it's working on making better use of online services and a simplified application process to reduce delays.

Sukhjit Nagra, a consultant based in Delta, B.C., said her client, a high-skilled commercial carpenter, had his work permit expire early in November and has until the end of this month before he has to pack and return to India. A renewal application is in process but the LMO still hasn't arrived.

“It is not just an inconvenience. His employer has taken on contracts based on this foreign worker being there to lead two other, lower-skilled Canadian workers,” said Nagra. “This is a problem. The employer is going to lose money. Our economy is going to lose money.”

Temporary foreign workers in Canada

2001 196,390

2002 101,099

2003 109,679

2004 125,034

2005 140,690

2006 160,854

2007 199,246

2008 249,796

2009 281,349

2010 282,771

Citizenship and Immigration Canada

<http://www.thestar.com/article/1123302--foreign-workers-face-being-sent-home-over-work-permit-snarl>