

A Layman's Checklist for Farmers Hiring Temporary Foreign Workers

updated: June 2017

Agricultural employers can hire temporary foreign workers (TFW) under 4 different streams; however, each stream has specific criteria that must be met.

1. Seasonal Agricultural Worker Program (SAWP)
 - TFWs must be from Mexico or participating Caribbean countries
 - production must be included on the National Commodities List
 - activities must be related to on-farm primary agriculture
 - positions can be in lower or higher-skilled occupations
2. Agricultural Stream
 - TFWs can be from any country
 - production must be included on the National Commodities List
 - activities must be related to on-farm primary agriculture
 - positions can be in lower or higher-skilled occupations
3. Stream for Higher-wage positions
 - employers can hire TFWs for any high-wage agricultural position from any country
 - production is not included on the National Commodities List
4. Stream for Lower-wage position
 - production is NOT included on the National Commodity List
 - employers can hire TFWs for any low-wage agricultural position and from any country

For more details on the four programs available for agriculture, go to the following link:

<https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural.html>

Requirements of the Employer regardless of program used:

- 1) Must obtain a Labour Market Impact Assessment (LMIA) from Service Canada, for each temporary foreign worker you wish to hire. (This was formerly referred to as a Labour Market Opinion (LMO) letter).

- 2) In order to obtain an LMIA letter, employers must advertise on Job Bank and one other acceptable source for a minimum of 14 days. New employers should show ongoing advertising for as far back as possible.
- 3) In general, the employer will need to also provide proof of advertising efforts in the media and the internet, for a period of at least 30 days, prior to requesting a LMIA.

Outline of the two most common programs used by farmers:

- SAWP: (for NB employers)
 - Employer pays all lodging costs.
 - Employer pays round trip transportation costs, but may claw back a certain amount for every day the foreign worker is employed. For workers in Caribbean countries, the amount is \$5.00 per working day to a maximum of \$610.00. For Mexican workers, the amount is 10% of the workers gross pay, to a maximum of \$617.00
 - Foreign worker can only stay in Canada for 8 months, but must be out of Canada between December 15 and the Jan 1.
 - Workers come from Mexico and some of the Caribbean islands.
 - Workers can move from one employer to another, provided each employer has a new LMIA prior to working for a different employer.
 - If a worker is chosen for the employer by the host country and the employer is not satisfied with the worker (within the first 14 days), the host country, at their expense will replace that worker. However, if the employer specifies by name for a worker to return the following years, then the employer pays for all costs associated with the dismissal of that worker.

For complete details on this program go to the following link:

<https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural.html>

- Agricultural Stream – lower skilled positions
 - Employee pays for lodging and food. However, employees cannot be charged more than \$30.00 per week for lodging.
 - Employer pays round trip transportation costs and may not recover any of these costs from the worker, directly, or indirectly.
 - Employers may request a duration of up to 2 years on the LMIA application.
 - Foreign workers can come from anywhere in the world
 - Workers can change employers, provided they have a valid work permit and each employer has approval to hire the TFW, ie has a valid LMIA.

- If a worker proves to be dissatisfactory, the total costs of replacing that person is the employers responsibility.

For complete details on this program go to the following link:

<https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/agricultural.html>

For more information contact:

Employment Contact Center – 1-800-367-5693

Timelines:

Contact the Employment Contact Center for best and up-to-date information. However, in general:

- Advertising and interviewing for at least 14 days.
- Obtaining a LMIA letter – takes about a month for approval – IF all paperwork is complete and accurate
- Once the LMIA letter has been obtained, SAWP workers come very quickly – first time SAWP applicants, perhaps a month; employers repeating the process in subsequent years, can take as little as a few weeks.
- TFW – Ag stream workers take much longer, depending upon the country of origin and the backlog of the Canadian Embassy – could take between 3 to 9 months.

Disclaimer:

This checklist is not endorsed by Service Canada. It is believed to be factually correct, but as programs change, certain aspects of this document may no longer be applicable. This is meant to be used as a guide only. Check with Service Canada's Employment Contact Center for complete and up-to-date details.