



# Employment Update

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## THINKING OF HIRING A LIVE-IN NANNY? HERE'S WHAT YOU NEED TO KNOW

Catherine Longo

Canada is facing a shortage of live-in caregivers. Many Canadians are turning to Citizenship and Immigration Canada's Live-In Caregiver Program (“LCP”) as a result of this shortage. The LCP is a subset of the Temporary Foreign Worker Program through which a temporary foreign worker may come to Canada for the purpose of caring for a child or an elderly or disabled person living in your home. As the name suggests, the caregiver must live in the home where he/she works.

If you hire a live-in caregiver, **you are the employer**. As an employer, you have a number of responsibilities. As with any other employment relationship it is crucial to start on the right foot.

### LCP Program Requirements

As an employer under the LCP, you must:

- Provide proof that your dependant is in need of care;
- Make (and document) efforts to find a

Canadian or a permanent resident to fill the position;

- Demonstrate that you have sufficient income to pay the caregiver;
- Provide suitable accommodation in your home;
- Put together a job offer that has primarily caregiving responsibilities for a child or an elderly or disabled person living in your home;
- Prepare an employment contract incorporating the legal and LCP requirements with respect to wages, working conditions and occupation, and consider other terms of employment such as overtime;
- Submit an application for a Labour Market Opinion with the employment contract to Human Resources and Skills Development Canada/Service Canada;
- Register as an employer with the Canada Revenue Agency;
- Pay the transportation costs of the live-in caregiver to the work location in Canada;
- Pay for the caregiver's private health

## EMPLOYMENT UPDATE

*“The earlier version of the Bill provided for a two year wage freeze... [and] has been amended to now provide for a continuation of the restraint measures until a day to be named by proclamation of the Lieutenant Governor.”*



Catherine Longo is a member of Blaney's Labour and Employment, Insurance Defence and Immigration Law Groups. Her practice includes labour, employment and human rights law.

Catherine articulated with Blaney McMurtry in 2010-2011 and returned to the firm as an associate after her call to the Bar in 2011.

Before coming to Blaney's, Catherine was a member of the Correctional Law Project. She provided legal advice and representation to federal inmates at Penitentiary Disciplinary Court and National Parole Board hearings.

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insurance from the time the caregiver arrives in Canada until the worker is covered by the appropriate provincial/territorial health insurance plan; and

- Pay for workplace safety insurance coverage from the applicable provincial or territorial workplace safety insurance provider. In Ontario, the insurance provider is the Workplace Safety and Insurance Board.

In addition, you must ensure that the caregiver meets the LCP requirements. Specifically you must:

- Ensure that the caregiver can speak, read, and understand either English or French;
- Ensure that the caregiver has a valid work permit; and
- Ensure that the caregiver has the necessary qualifications:
  - o Equivalent of a Canadian high school education;
  - o 6 months full time training; or
  - o 1 year of experience as a full time caregiver or related occupation (including 6 months with the same employer) during the past 3 years.

Other important considerations:

- Start early, the processing time for the application may be a couple of months or more; and
- Determine any special requirements based

upon your province/territory. For example, advertisement criteria vary slightly in the province of Quebec.

If you are looking to hire a **housekeeper or housecleaner, or a nanny who would live outside of your home**, then this is not the program for you. You should apply under the Temporary Foreign Worker Program for Lower Skilled Positions.

For those who require full-time care for a loved one, proper diligence on your part is essential to ensuring a positive outcome. ■

## BILL 55 RECEIVES ROYAL ASSENT

**Maria Kotsopoulos**

In our May *Employment Update* we outlined key aspects of the proposed budget legislation with respect to the issue of a wage freeze for certain designated employees of certain employers in the public and broader public service. On June 20, 2012, Bill 55, Strong Action for Ontario Act (Budget Measures), 2012, received royal assent.

The earlier version of the Bill provided for a two year wage freeze, expiring at the end of the day on March 31, 2014. However, the Bill has been amended to now provide for a continuation of the restraint measures until a day to be named by proclamation of the Lieutenant Governor. No day for the expiry of the wage freeze has yet been named. ■

## EMPLOYMENT UPDATE

*“...the Human Rights Code is amended to specify that every person has a right to equal treatment without discrimination because of gender identity or gender expression...”*



Maria Kotsopoulos practices with Blaney's Labour and Employment Group in all areas of labour, employment and human rights law.

Maria advocates on behalf of employers, not for profit organizations, trade unions, and employees, and has been involved in matters before the Superior Court of Justice, the Federal Court, the Labour Board, the Human Rights Tribunal, the Workplace Safety and Insurance Appeals Tribunal, and other tribunals.

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## AMENDMENTS TO HUMAN RIGHTS CODE

**Maria Kotsopoulos**

On June 19, 2012, Bill 33, Act to amend the *Human Rights Code* with respect to gender identity and gender expression received Royal Assent. As a result, the *Human Rights Code* is amended to specify that every person has a right to equal treatment without discrimination because of gender identity or gender expression with respect to services, goods and facilities; accommodation; contracting; employment; and membership in a trade union, trade or occupational association or self-governing profession.

The Bill also amends the Code to specify that every person has a right to be free from harassment because of sexual orientation, gender identity or sexual expression with respect to accommodation and employment.

The terms “gender identity” and “gender expression” have not been defined in the legislation. However, the Ontario Human Rights Commission has defined “gender identity” as being linked to a person’s sense of self, and the sense of being male or female, which may be different from one’s birth-assigned sex. The overall aim of these amendments is to deal specifically with discrimination and harassment faced by transgendered individuals. ■

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