

HRSDC Announces New Wage Structure for LMO Applications

by Henry J. Chang

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Henry J. Chang is a partner in the firm's Immigration Law group. He is admitted to the practice of law in the Province of Ontario and the State of California. Henry is also an Executive Member of the Canadian Bar Association National Citizenship & Immigration Law Section. A recognized authority in the field of United States and Canadian immigration law, he lectures extensively on the subject in both the United States and Canada.

Henry may be reached directly at 416.597.4883 or hchang@blaney.com.

On April 25, 2012, Diane Finley, Minister of Human Resources and Skills Development, announced her intention to make improvements to the Temporary Foreign Worker ("TFW") Program. In connection with this announcement, Human Resource and Skills Development Canada ("HRSDC") has adopted a new wage structure that will be applicable to Labour Market Opinion ("LMO") applications and Accelerated LMO ("A-LMO") applications.

Under the previous wage structure, employers were required to pay temporary foreign workers at least the average wage for the proposed occupation in the specific region where the employment was to occur, regardless of what they were paying their Canadian employees. In many cases, this resulted in employers paying TFWs more than Canadians. The method of determining the average wage was also inconsistent from region to region.

The new wage structure is based on Statistics Canada's data to ensure consistency from region to region (provided at the [Working in Canada Website](#)) and allows employers to pay wages that are below the average wage, within a set range, under certain circumstances. Employers can now pay wages that are:

- a) Up to 15% below the average wage for a high-skill occupation (skill type 0, skill levels A and B under the *National Occupational Classification* ("NOC") in the region where the employment will occur; and
- b) Up to 5% below the average wage for a low-skill occupation (NOC skill levels C and D) in the region where the employment will occur (but the wage for a low-skill occupation cannot be below the minimum wage).

Employers who choose to pay a wage that is below the applicable average wage in accordance with the new wage structure will be required to provide documentation clearly demonstrating that the wage being paid to a TFW is the same as that being paid to their Canadian employees in the same job and in the same location. In addition, if they participate in HRSDC's new A-LMO initiative, they will likely be flagged for post-LMO compliance review.

According to HRSDC, the new wage structure does not apply to the Seasonal Agricultural Worker Program, the Agricultural Stream of the NOC C and D Pilot Project or the Live-in Caregiver Program, because employers participating in these programs hire mostly temporary foreign workers. ■