

CIC Establishes LMIA Exemptions for Television and Film Production Workers and Performing Artists

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Introduction

On February 3, 2016, Citizenship and Immigration Canada (“CIC”) announced two new categories of work permits exempt from the Labour Market Impact Assessment (“LMIA”) requirement, pursuant to Section 205 of the *Immigration and Refugee Protection Regulations*:

- Exemption code C14 will apply to foreign nationals whose work is essential to a television or film production and would create and maintain significant economic benefits and opportunities for Canadians and permanent residents.
- Exemption code C23 will apply to foreign nationals working in dance (i.e. ballet, contemporary), opera, orchestra, and live theatre, whose work contributes to competitive advantages and reciprocal benefits for all Canadians, including Canadian performing artists and performing arts organizations.

In other words, workers who are eligible under one of the above exemptions may obtain work permits without having to demonstrate the unavailability of Canadian workers, which is typically required as part of the LMIA process.

CIC has also revised its guidance relating to the business visitor category (under R186). This guidance now clarifies that foreign nationals who are employed as film producers, essential personnel for commercial (i.e., advertising) shoots, and film and recording studio users may be considered under the business visitor category.

C14 Exemption

As of February 17, 2016, a foreign national in the TV and film industry, whose position or occupation is essential to a TV or film production, may now be eligible for an LMIA-exempt work permit pursuant to under R205(a). Immigration Officers will issue work permits to TV and film production workers under exemption code C14, if they are satisfied that the work is essential to a TV or film production that will create and maintain significant economic benefits and opportunities for Canadians and permanent residents.

In general, this exemption will apply to [high wage](#) and unionized positions. It will also apply to all TV and film productions in Canada, regardless of whether the production is foreign or Canadian and whether it is filmed entirely or in part in Canada.

As with all LMIA exempt categories, the employer must [submit an Offer of Employment](#) pursuant to R209.11, before a work permit application is submitted at a consular post (in the case of visa-required foreign nationals) or at time of entry (in the case of visa-exempt foreign nationals).

The following documentation should be provided in support of a C14 work permit application:

- A letter of support from the production, which should generally contain specifications such as:
 - The name and contact information for the production;
 - The working title of the production, the province(s) or territory(ies) in Canada in which the production will take place and the proposed dates of production;
 - The name of the work permit applicant for the production;
 - A statement confirming that the individual and position are essential to that specific TV or film production;
 - Details of the significant economic benefit to Canada of the TV or film production, which may include:
 - The estimated number of jobs for Canadians created by the production;
 - The estimated budgetary spend in Canada at the federal, provincial or territorial level;
 - A statement confirming that the TV or film production satisfies the criteria for federal, provincial or territorial tax credit for TV or film production, or is the recipient of federal, provincial or territorial funding for TV or film production;
 - The signature of a senior representative of the production; and
 - The date of signature.
- A letter from the relevant union or guild, which should generally contain specifications such as:
 - The description of the union or guild;
 - The working title and the relevant location(s) of the TV or film production;
 - The name of the work permit applicant;
 - A statement for the officer's consideration indicating that the union or guild is of the view that the work to be performed is subject to a collective agreement and that it has no objection to the foreign national working in the specified position for the specified company;
 - The signature of a senior representative of the organization; and
 - The date of signature.

Work permits under C14 may be issued for the duration of the intended employment or until the expiry of the travel document, whichever is earlier. If there is no end date to the duration of the intended employment, immigration officers may issue a work permit that is valid for up to two years or until the expiry of the travel document, whichever is earlier.

C23 Exemption

As of February 17, 2016, key creative personnel and talent associated with Canadian, non-profit performing arts companies and organizations in the orchestral music, opera, live theatre, and dance disciplines (i.e. ballet, contemporary) may now be eligible for an LMIA-exempt work permit pursuant to R205(b). Immigration Officers will issue work permits under exemption code C23 if they are satisfied that reciprocal employment opportunities exist for Canadians and permanent residents. Evidence of reciprocal employment opportunities may include:

- An [*Offer of Employment*](#) submitted by the employer (i.e., performing arts company or organization), pursuant to R209.11, which clearly indicates:
- The applicant's job offer (job title and main duties) is in the dance, opera, orchestra or live theatre discipline of the arts;
- The employer is a current recipient of annual or multi-year operational funding support from the Canada Council for the Arts or of financial support via parliamentary appropriation (i.e. National Arts Centre); and
- A letter (or other evidence) submitted by the applicant that has been provided by the applicable Canadian performing arts representative or service organization and that proves reciprocal international opportunities exist for Canadians in that particular discipline (i.e. contemporary dancers, ballet choreographers, opera singers, actors in theatrical productions, orchestral musicians).

The letter should generally include specifications such as:

- The organization's mandate, including information on who is eligible for membership;
- The discipline in question (dance, live theatre, orchestra, opera) and the types of work (e.g., dancer, choreographer) for which the organization can affirm reciprocity;
- A statement affirming that reciprocity has been known to exist over the past year, including details on how the organization is able to affirm reciprocity;
- The signature of a senior representative of the organization able to affirm reciprocity; and
- The date of signature.

If applicable, the applicant may also provide a copy of a formal agreement between a Canadian performing arts organization and an international performing arts organization that stipulates the employment of particular workers who possess intellectual property related to the production (i.e. choreography, lighting or set design, or direction).

For some disciplines and occupations, there may be multiple representative or service organizations able to affirm reciprocity. It is anticipated that the following organizations may provide letters of reciprocity to work permit applicants:

- Dance: Canadian Dance Assembly, International Alliance of Theatrical Stage Employees ("IATSE"), Canadian Actors' Equity Association, *Regroupement québécois de la danse*;

- Orchestra: Orchestras Canada, Canadian Federation of Music;
- Theatre: IATSE, Canadian Actors' Equity Association; and
- Opera: Opera.ca, Canadian Actors' Equity Association.

A C23 work permit may be issued for the duration of the intended employment or until the expiry of the travel document, whichever is earlier. If there is no end date to the duration of the intended employment, immigration officers may issue a work permit that is valid for up to two years or until the expiry of the travel document, whichever is earlier.

Revised Business Visitor Guidance

As mentioned above, CIC's business visitor guidance has been revised. It now states that the following foreign nationals may be considered under the business visitor category:

- Film producers employed by foreign companies for commercial shoots (for film co-producers, refer to T11 non-trade agreements); and
- Essential personnel (i.e. actors, directors, technicians) entering Canada for short durations (typically no longer than two weeks) for a foreign-financed commercial (i.e., advertising) shoot (for television, magazines or other media).

The guidance further states that the onus is on the applicant to provide any and all relevant documentation that would support a request for a work permit exemption under the business visitor category.