Labour shortage: answers to your questions about hiring a foreign worker

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The labour shortage that affects Quebec as a whole as well as many other provinces has been a well-known issue for several years. Almost every week, we hear about companies that are forced to close their doors or limit their activities due to a lack of staff in positions of all nature.

In order to work in Canada, foreign employees must first obtain the necessary authorizations.

Employers planning to hire a foreign worker must ensure that an assessment of the candidate's profile is conducted to determine if the candidate is eligible for an immigration program. If so, it will be important to determine which program is most effective and appropriate.

To guide you through this process, here are the answers to certain frequently asked questions.

True or False: An employer must obtain a Labour Market Impact Assessment (LMIA) before a foreign worker can apply for a Canadian work permit

False.

Although a Labour Market Impact Assessment (LMIA) is normally required to obtain a work permit, an LMIA exemption may apply in some cases.

Remember: a positive Labour Market Impact Assessment (LMIA) confirms the need to hire a foreign worker to perform a particular job and that no Canadian worker is available to fill this position. If the LMIA application is approved, the foreign applicant may subsequently apply for a work permit.

There are however Labour Market Impact Assessment (LMIA) exemptions, of which the following are frequently used:

Work permits issued under an international agreement, such as North American Free Trade Agreement (NAFTA) or Comprehensive Economic and Trade Agreement (CETA);
Intra-company transferees;

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Youth exchange programs;
Spouses or common-law partners of skilled workers or students;
Work permits issued to certain holders of a Quebec Selection Certificate (“Certificat de selection du Québec – CSQ”) who reside in Québec.

For a complete list of exemptions, click here.

Before starting the complex process of obtaining an LMIA, we strongly suggest that you confirm that no exemption applies in that foreign worker’s case.

True or false: Filing an application for permanent residence grants temporary Canadian residence status to the applicant

False.

Once a temporary resident has obtained a permit to remain in Canada, whether to visit, study or work, they must ensure that they maintain valid temporary resident status. To do so, the applicant must submit an application for extension or modification of their status before the expiry of their immigration documents.

Applying for permanent residence does not have the direct effect of extending temporary residence status in Canada.

In Quebec, temporary residents wishing to apply for permanent resident status must first obtain a CSQ, issued by the *Ministère de l'Immigration, de la Francisation et de l'Intégration* (MIFI). Once they obtain a CSQ, temporary residents can apply for permanent residence.

Note: Holding a CSQ has no direct impact on the applicant's temporary resident status. They may be required to extend their temporary status in Canada if their permanent residence is not finalized before the expiry of their temporary status.

In all cases, temporary residents are therefore required to extend their temporary status in Canada until they become permanent residents, if that is their objective.

Your strategies for future recruitment

Whether or not the staffing process for a vacant position has proven difficult, HR managers may find it beneficial to consider recruiting foreign candidates.

A key factor not to be overlooked: verify whether an LMIA exemption applies.

Foreign candidates may be responsible for obtaining their work permit and maintaining valid status in Canada, but HR managers can maximize candidates’ efforts if they are familiar with existing immigration programs.

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