

Temporary Foreign Worker Program

Annex 2

Instruction Sheet to Accompany Employment Contract

The purpose of an employment contract is to:

- Have a written, detailed description of the job. It includes for example, the maximum number of hours of work per week, wage rate and whether overtime will be paid. The contract must be signed by both the employer and employee.
- Describe the terms and conditions of employment.
- Articulate the employer's responsibilities and the worker's rights.
- Help ensure that the worker gets fair working arrangements.

The employment contract must respect provincial labour laws that establish minimum employment standards such as the minimum wage.

Enforcing the terms and conditions of the employment contract

The Government of Canada is not a party to the contract. Employment and Social Development Canada (ESDC)/Service Canada has no authority to intervene in the employer-employee relationship or to enforce the terms and conditions of employment. It is the responsibility of the employer and worker to familiarize themselves with laws that apply to them and to look after their own interests.

The contract assists ESDC/Service Canada officers in forming their Labour Market Opinions, pursuant to their role under the Immigration and Refugee Protection Regulations.

Sample Employment Contract

Employers must complete and sign a contract before applying for a Labour Market Opinion.

The attached sample contract or another contract which includes all the terms and conditions of the sample contract or described in the guidelines for employers, must be completed and signed by the employer. Additional provisions may be added as long as they do not contradict the terms and conditions mentioned above. The employer must complete and sign the employment contract and send it to the foreign worker ("The Employee") with a copy of the confirmation letter he/she received from ESDC. The worker must sign the contract and provide both documents to the Canada mission abroad.

Third-party Representatives

A third-party representative/recruiter cannot be party to or sign the employment contract on behalf of the employer or otherwise.

Any agreement respecting employment validations between ESDC/Service Canada and the employer is contingent on the employer being a party to the contract.

EMPLOYMENT CONTRACT

The Employer: _____

Business Name (if a Business, provide key business contact under last name/first name):

Last Name : _____
First Name: _____
Address: _____
Phone Number: _____
Fax Number: _____
Email Address: _____

The Employee: _____
Last Name: _____
First Name: _____
Home Address: _____
Phone Number: _____
Fax Number: _____
Email Address: _____

The PARTIES agree as follows:

Duration of Contract

1. This contract shall have duration of _____ months from the date The EMPLOYEE assumes his/her functions (the "TERM OF EMPLOYMENT").
2. Both parties agree that this contract is conditional upon The EMPLOYEE obtaining a valid work permit pursuant to the Immigration Regulations, and his/her successful entry to Canada.

Job Description

3. The EMPLOYEE agrees to carry out the following tasks (describe tasks in detail): _____.

Work Schedule

4. The EMPLOYEE shall work _____ hours per week. He/she shall be paid overtime for any hours of work exceeding _____ hours per week. His/her workday shall begin at _____ and end at _____, or, if the schedule varies by day, specify: _____.
5. The EMPLOYEE shall be entitled to _____ minutes per day of break time (lunch, coffee breaks etc.....).
6. The EMPLOYEE shall be entitled to _____ day(s) off per week, on _____.
7. The EMPLOYEE shall be entitled to _____ weeks of paid vacation.
8. The EMPLOYEE shall be entitled to _____ days of sick leave per year.

Wages and Deductions

9. The EMPLOYER agrees to pay The EMPLOYEE, for his/her work, wages of \$_____ per week, or \$_____ per hour. These shall be paid at intervals of _____.
10. The EMPLOYER agrees to remit all EMPLOYEE's income deductions to Canada Revenue Agency (in Quebec, also to Revenu Québec) as prescribed by law (including, but not limited to Employment Insurance, Income Tax, Canada Pension Plan or Quebec Pension Plan).

11. The EMPLOYER shall not recoup from the EMPLOYEE, through payroll deductions or any other means, any costs incurred from recruiting the EMPLOYEE.

Reviewing Wages

12. If applicable, the EMPLOYER agrees to review and adjust (if necessary) the EMPLOYEE'S wages after 12 months of continuous employment, to ensure they meet the prevailing wage rate for the occupation in the region where the EMPLOYEE shall be employed.

Transportation Costs

Use the appropriate no. 13 clause according to the situation.

13. The EMPLOYER agrees to assume the transportation costs of the round trip travel of the EMPLOYEE between his/her country of permanent residence and place of work in Canada, i.e.

_____ (specify the country of permanent residence and the place of work in Canada). It is the EMPLOYER'S obligation and responsibility to pay for the transportation costs and they cannot be passed on to the foreign worker (i.e. the EMPLOYEE pays for the transportation costs on behalf of the employer and is reimbursed at a later date). Under no circumstances are transportation costs recoverable from the EMPLOYEE.

Or

13. Since the EMPLOYEE is currently in Canada, the EMPLOYER agrees to pay the costs of transporting the EMPLOYEE from his/her current Canadian address to the EMPLOYER'S location of work in Canada, i.e. _____ (specify the EMPLOYEE'S current Canadian address and the place of work) and one-way transportation back to the EMPLOYEE'S country of permanent residence i.e. _____ (specify the EMPLOYEE'S country of permanent residence). It is the EMPLOYER'S obligation and responsibility to pay for the transportation costs and they cannot be passed on to The EMPLOYEE (i.e. employee pays for his/her own transportation on behalf of the EMPLOYER and is reimbursed at a later date). Under no circumstances are transportation costs recoverable from the EMPLOYEE.

14. If there is a termination of the employer-employee relationship and the EMPLOYEE is hired by a NEW EMPLOYER who has a neutral or positive Labour Market Opinion under the Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C & D) of the Temporary Foreign Worker Program, The EMPLOYEE shall release the ORIGINAL EMPLOYER with the obligation of his/her return transportation cost to his/her country of permanent residence. The NEW EMPLOYER is responsible for the EMPLOYEE'S transportation costs to the new location of work in Canada and back to the EMPLOYEE'S country of permanent residence. The EMPLOYER is obliged to and responsible for paying the transportation costs (i.e. the ORIGINAL EMPLOYER pays incoming transportation costs and the NEW EMPLOYER pays for the return transportation costs to the country of permanent residence). These costs cannot be passed on to the EMPLOYEE (i.e. EMPLOYEE pays for its own transportation on behalf of the EMPLOYER and is reimbursed at a later date). Under no circumstances are transportation costs recoverable from foreign workers.

Temporary foreign workers who change jobs must ensure that their work permits are modified accordingly and EMPLOYERS who hire temporary foreign workers already in Canada must apply to ESDC/Service Canada for a Labour Market Opinion (LMO) and obtain a neutral or positive LMO.

Accommodation

15. The EMPLOYER agrees to ensure that reasonable and proper accommodation is available for the EMPLOYEE, and shall provide the EMPLOYEE with suitable accommodation, if necessary. If accommodation is provided, the employer shall recoup costs as outlined below. Such costs shall not be more than is reasonable for accommodations of that type in the employment location.

The EMPLOYER _____ will / _____ will not provide the EMPLOYEE with accommodation. (Mark X beside appropriate box)

If yes, The EMPLOYER will recoup the costs at an amount of \$_____ per _____ (month, two-week period etc.) through payroll deductions.

Hospital and Medical Care Insurance

16. The EMPLOYER agrees to provide health insurance at no cost to the foreign worker until such time as the worker is eligible for applicable provincial health insurance.

Workplace Safety Insurance (Worker's Compensation)

17. The EMPLOYER agrees to register The EMPLOYEE under the relevant provincial government insurance plan. The EMPLOYER agrees not to deduct money from The EMPLOYEE'S wages for this purpose.

Notice of Resignation

18. Should the EMPLOYEE wish to terminate the present contract, The EMPLOYEE agrees to give The EMPLOYER written notice thereof at least one week in advance.

Notice of Termination of Employment

19. The EMPLOYER must give written notice before terminating the contract of The EMPLOYEE if the EMPLOYEE has completed 3 months of uninterrupted service with the EMPLOYER and if the contract is not about to expire. This notice shall be provided at least one week in advance.

Contract Subject to Provincial Labour and Employment Legislation and Applicable Collective Agreements

20. The EMPLOYER is obliged to abide by the standards set out in the relevant provincial labour standards act and, if applicable, the terms of any collective agreement in place. In particular, The EMPLOYER must abide by the standards with respect to how wages are paid, how overtime is calculated, meal periods, statutory holidays, annual leave, family leave, benefits and recourse under the terms of the provincial labour standards act and, if relevant, collective agreement. Any terms of this contract of employment less favourable to The EMPLOYEE than the standards stipulated in the relevant labour standards act is null and void.

IN WITNESS WHEREOF the parties state that they have read and accepted all the terms and conditions stipulated in the present contract.

Signed at: _____
The Employer _____
Date _____

and at: _____
The Employee _____
Date _____

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