



Employment Agencies

This publication is intended to provide general information only and is not a substitute for legal advice.

October 2007

An employment agency helps an employer find employees or helps employees find work or evaluates or tests people for employers seeking employees.

HIGHLIGHTS

- 2 WHAT FEES CAN BE CHARGED?**
- 2 WHAT IS AN IMMIGRATION REPRESENTATIVE?**
- 3 WHO IS RESPONSIBLE FOR A FOREIGN WORKER'S LEGAL DOCUMENTS AND APPLICATIONS?**
- 3 DOES ALBERTA WORKPLACE LEGISLATION APPLY TO FOREIGN WORKERS?**
- 4 WHERE TO DIRECT COMPLAINTS ABOUT EMPLOYMENT AGENCIES**
- 4 FOR MORE INFORMATION**

WHO REQUIRES A LICENCE TO OPERATE?

Businesses are required to be licensed by Service Alberta regardless of where they are located if they help employers in Alberta find employees, help employees find work in Alberta or evaluate or test people for employers seeking employees.

Under the *Fair Trading Act* (FTA), businesses are required to have an Employment Agency Business Licence if they are:

- 1) Working on behalf of employees, employers or both
- 2) Finding jobs for Canadians or non-Canadians
- 3) Finding workers for Canadian or non-Canadian employers
- 4) Finding workers of any nationality for Alberta employers or for jobs in Alberta.

To check whether an employment agency is licensed, please contact:

Consumer Contact Centre

Service Alberta

Tel: 780-427-4088 (Edmonton and area)

Toll-free in Alberta: 1-877-427-4088

Outside Alberta: 780-427-4088

www.servicealberta.ca

Failure to comply with the *Fair Trading Act* may result in a fine of up to \$100,000, a jail term of up to two years or both.

WHAT FEES CAN BE CHARGED?

The FTA allows employment agencies to charge some types of fees, but prohibits others.

- No employment agency may charge a fee for helping a person find a job. However, an employment agency can charge an employer for its services.
- No employment agency may demand or hold a bond or deposit from a person that will not be returned if they do not complete the work term or employment contract. It is against the law for any fee to be collected from a person even if it may be refunded later.
- An employment agency cannot tell an employer that the employer can recover the costs of their services from the employee. This is a violation of the FTA.
- An employment agency may charge a person for services such as resume preparation. However, the agency cannot make a person buy these services as a condition to help the person find work. An employment agency that charges a fee for such services must post a list of the fees charged in a conspicuous location in the business premises.

CAN AN EMPLOYMENT AGENCY PAY A FOREIGN WORKER'S WAGES ON BEHALF OF THE WORKER'S EMPLOYER?

Service Canada has established requirements for employment agencies and employers that want to enter into an arrangement of this nature. For more information, contact Service Canada's Temporary Foreign Worker Program.

WHAT IS AN IMMIGRATION REPRESENTATIVE?

An immigration representative is someone appointed by a foreign worker to conduct business on their behalf with Citizenship and Immigration Canada (CIC), Canada

Border Services Agency or the Immigration and Refugee Board. An immigration representative may, for example, help a person complete their CIC applications or communicate with CIC on that person's behalf.

An immigration representative may also be appointed by a foreign worker to conduct business on their behalf with the Alberta Provincial Nominee Program (Alberta PNP). All CIC and Alberta PNP applications are available free of charge and a person is not required to use an immigration representative to complete or submit them.

WHO CAN ACT AS AN IMMIGRATION REPRESENTATIVE?

There are two types of immigration representatives:

• Paid

In order to charge a fee, representatives must be authorized to conduct business for their clients. They must be:

- o A lawyer in good standing with a Canadian provincial or territorial law society or a student-at-law under their supervision
- o An immigration consultant in good standing with the Canadian Society of Immigration Consultants
- o A notary in good standing with the Chambre des notaires du Quebec or student-in-law under their supervision.

• Unpaid

Immigration representatives who are unpaid may include a family member, friend or a member of a non-governmental or religious organization.

their passport, work permit or other personal legal documents.

HOW IS AN IMMIGRATION REPRESENTATIVE DIFFERENT FROM AN EMPLOYMENT AGENCY?

A paid immigration representative and an employment agency offer different services. For example, an immigration representative does not usually assist a person in securing employment or in finding employees for an employer. Further, an employment agency cannot communicate with CIC on a person's behalf.

WILL USING AN EMPLOYMENT AGENCY OR AN IMMIGRATION REPRESENTATIVE SPEED THE PROCESS TO HIRE FOREIGN WORKERS?

No. An employment agency or an immigration representative may assist in completing the necessary application form more efficiently, but once the application is submitted, the agency or immigration representative has no influence over the speed of the process.

WHO IS RESPONSIBLE FOR A FOREIGN WORKER'S LEGAL DOCUMENTS AND APPLICATIONS?

Employers and individual foreign workers are responsible for checking that all paperwork submitted to and issued by Service Canada and CIC (e.g. labour market opinion, work permit, etc.) is correct. Do not rely on an employment agency or an immigration representative to ensure that all the necessary paperwork has been completed. (Employers are responsible for ensuring their foreign workers have permission to work in Canada before starting work. Failure to do this is an offence under the *Immigration and Refugee Protection Act*.)

No one may force a foreign worker to hand over

WHAT ARE THE PENALTIES FOR BREACHING THE FAIR TRADING ACT?

Failure to comply with the *Fair Trading Act* may result in a fine of up to \$100,000, a jail term of up to two years or both.

DOES ALBERTA WORKPLACE LEGISLATION APPLY TO FOREIGN WORKERS?

Yes. Alberta's laws offer foreign workers the same protection as others working in the province. Check with Alberta Employment, Immigration and Industry for employment standards and workplace health and safety regulations.

Foreign workers are also covered under the *Workers' Compensation Act*, provided they are working in an industry to which the act applies. Under the act, employers are required to post at all worksites the 1-2-3 poster that explains how to report a work-related injury. The 1-2-3 poster is available on the Workers' Compensation Board website in 15 languages at www.wcb.ab.ca/publications/123_posters.asp.

CAN AN EMPLOYER SEND A FOREIGN WORKER HOME BEFORE THEIR WORK PERMIT EXPIRES?

An employer or employment agency has no legal authority to send a foreign worker home against their will to prevent them from submitting a complaint. Only the Government of Canada has the legal authority to remove or deport an individual from Canada.

If a Canadian or non-Canadian employee does not carry out the duties agreed to in the employment contract,

the employer can give the employee the required notice or pay in lieu of notice.

Foreign workers are entitled to remain in Canada for the full term of their work permit. An employer or an employment agency cannot force a foreign worker to return to their country of origin if an employment contract is terminated before the work permit expires or if the foreign worker decides to find a job with another employer.

WHERE TO DIRECT COMPLAINTS ABOUT EMPLOYMENT AGENCIES

Consumer Contact Centre Service Alberta

Tel: 780-427-4088 (Edmonton and area)
Toll-free in Alberta: 1-877-427-4088
Outside Alberta: 780-427-4088
www.servicealberta.ca

WHERE CAN I GO FOR MORE INFORMATION?

Employment agency licensing and the *Fair Trading Act*

Consumer Contact Centre
Service Alberta
Tel: 780-427-4088 (Edmonton and area)
Toll-free in Alberta: 1-877-427-4088
Outside Alberta: 780-427-4088
www.servicealberta.ca

Temporary Foreign Worker Program

Service Canada
Suite 1440 Canada Place
9700 Jasper Ave.
Edmonton, AB T5J 4C1
Toll-free in Alberta and Northwest Territories:
1-800-418-4446
Outside Alberta and Northwest Territories:
780-495-7972 (Leave a message)
Fax: 780-495-2738
www.hrsdc.gc.ca

Work permits and visas

Citizenship and Immigration Canada
Toll-free in Canada: 1-888-242-2100
www.cic.gc.ca

Alberta employment standards

Employment Standards Contact Centre
Tel: 780-427-3731 (Edmonton and area)
Toll-free in Alberta: 310-0000 then 780-427-3731
Outside Alberta: 780-427-3731
www.employment.alberta.ca/employmentstandards

Alberta occupational health and safety

Workplace Health and Safety Contact Centre
Toll-free: 1-866-415-8690 (24 hours/day, 7 days/week)
www://industry.alberta.ca/whs

Workers' compensation

Workers' Compensation Board Customer Contact Centre
Tel: 780-498-3999 (Edmonton and area)
Fax: 780-498-7999
Toll-free in Alberta: 1-866-922-9221
Toll-free outside Alberta: 1-800-661-9608
www.wcb.ab.ca

This and other consumer tipsheets are available at the Service Alberta website at www.servicealberta.ca. Most public libraries have Internet access if you don't have access at home.

If you need more copies of this tipsheet, you have permission to photocopy.