

# **EMPLOYER INFORMATION BULLETIN** **HIRING OF TEMPORARY FOREIGN WORKERS TO WORK AS** **EXOTIC DANCERS**

## **CHANGES IN PROCEDURE**

### **SUBJECT**

Rescinding of the Human Resources and Skills Development Canada (HRSDC) national labour market opinion for the entry of exotic dancers, and implementation of individual labour market opinion requirement.

### **EFFECT**

The HRSDC National Labour Market Opinion for exotic dancers is rescinded.

Employers who wish to hire temporary foreign exotic dancers will be required to seek an individual labour market opinion from HRSDC. It will be the responsibility of employers to request this opinion in advance of the worker's application for a work permit.

### **BACKGROUND**

The Foreign Worker Program is jointly administered by Citizenship and Immigration Canada (CIC) and HRSDC, and operates under the authority of the *Immigration and Refugee Protection Act and Regulations (IRPA)*, which came into force in June 2002.

HRSDC's role with respect to the entry into Canada of temporary foreign workers is to provide CIC with a labour market opinion (employment confirmation) on the likely impact on the Canadian labour market if a foreign national was to be employed.

Once HRSDC assesses the employer's job offer, HRSDC informs both the employer and CIC of the labour market opinion. If HRSDC confirms the employer's request, workers can then apply to CIC officials who are responsible for issuing work permits to foreign worker dancers allowing them to work in Canada.

Pursuant to the *IRPA* regulations, HRSDC will conduct individual assessments of applications for foreign exotic dancers before issuing a labour market opinion. This is consistent with how HRSDC considers requests for other temporary foreign workers. In addition, HRSDC will require employers and foreign exotic dancers to sign a written employment contract outlining the terms of employment and demonstrating that an employer-employee relationship exists.

### **OPERATIONAL DIRECTIVES FOR NEW PROCESS**

1. Employers or group of employers who wish to hire exotic dancers will apply directly to [HRSDC offices in their region](#) for a labour market opinion. **It is important to note that for**

**positions located in Quebec**, HRSDC must consult with the *Ministère de l'Immigration et des Communautés culturelles* (MICC) to obtain their consent before issuing a confirmation. For more information on the way the program operates in Quebec, please visit the Web site of the MICC at the following address: [www.immigration-quebec.gouv.qc.ca](http://www.immigration-quebec.gouv.qc.ca)

2. Employers must establish an employer-employee relationship with the foreign dancer. Foreign workers can work for only ONE employer at a time, and the employer must be the person responsible for the day-to-day working conditions of the foreign worker. HRSDC will not recognize agencies and booking agents as employers of foreign exotic dancers.
3. However, HRSDC recognizes that for many club owners, it is more convenient to use the services of booking agents for the recruitment of exotic dancers. HRSDC also acknowledges that not all club owners or dancers will wish to establish a long-term employment relationship, and that both dancers and club owners may require the flexibility to establish employment relationships of short duration. To that effect, although they are not permitted to serve as Employers of Record, booking agents can serve as third party representatives and file applications on behalf of a group of employers (where they have been duly appointed as the third party representative). In situations where a group of employers wish to hire a dancer for a series of performances or short-term engagements, HRSDC is in a position to provide a labour market opinion, provided these employers use the appropriate application process as described in the section "Group of Employers" of this document.
4. All employers and foreign exotic dancers must sign employment contracts for duration no longer than one (1) year. Contracts must explicitly contain information on:
  - wages and hours of work per day/week
  - duties the foreign worker is to perform
  - health coverage and other benefits
  - deductions (e.g. CPP, EI, taxes)

A sample contract is provided at: <http://www.hrsdc.gc.ca/en/epb/lmd/fw/forms/conexdan-e.pdf>.

5. HRSDC will assess the employer's efforts to hire Canadian citizens and permanent residents for full-time work at an acceptable wage/salary. An assessment of the employer's advertising efforts will be used to make this determination. Employers **MUST** provide clear evidence of efforts to hire Canadian citizens and permanent residents, in the form of advertising, which must meet the following requirements:
  - Advertisements must clearly indicate that the employer is seeking persons to dance only, and specify the wage/salary, the number of hours of work per week and the location of job;
  - The job must be advertised in the area where the job is located;
  - Advertisements should run for a minimum of three weeks (employers should provide proof of duration, such as receipts); and,
  - Employers are required to submit printed copies of the advertisements.

6. Employers are required to pay the wage rate identified by HRSDC for the region which will be no less than the provincial minimum wage rate. Employers are also required to guarantee payment for a minimum of 30 hours per week, in keeping with standard foreign worker policy to confirm only offers of full-time employment. It is not possible for HRSDC to approve requests if guaranteed wages or salary are not being offered by the employer.

In addition, employees who work more than the provincial maximum hours will be entitled to overtime pay, in accordance with provincial standards. Tips or gratuities earned by the employee are the property of the employee and in no way constitute payment of wage/salary by the employer. The employer is not entitled to garnish any tips or gratuities received by the employee.

7. Employers are required to pay for the full return airfare to and from the workers' country of origin in advance of the workers' arrival in Canada. This amount is not recoverable from the foreign worker.
8. Employers must cover all recruitment costs. If an employer uses the services of a third-party recruiter, the employer must not recover the recruitment costs from the employee.
9. Employers should understand that meeting procedural requirements, guaranteeing of wages/salary, and provision of proof of advertising will not guarantee that a positive labour market opinion will be issued by HRSDC. The labour market opinion will be determined on the basis of an independent assessment of labour market criteria unique to the time and place of application. In order to issue a positive labour market opinion, HRSDC officials must be satisfied that the entry of the foreign worker is not likely to have a negative impact on the labour market.

## **GROUP OF EMPLOYERS**

In situations where a group of employers (whether represented or not by a booking agent) wish to hire a dancer for a series of performances or short-term engagements, HRSDC is in a position to provide a labour market opinion, provided:

1. an employer-employee relationship is in place throughout the foreign worker's time in Canada;
2. only one employer-employee relationship exists at any given time. HRSDC will not provide confirmations for part-time employment with a group of employers; and,
3. the person responsible for the day-to-day working conditions of the exotic dancer (the club owner in the club where he or she is employed at any given time) is the employer of record, and thus responsible and accountable for upholding the conditions of employment under which the positive labour market opinion has been issued.

In these situations where a group of employers wishes to hire a dancer for a series of engagements, the procedure is as follows:

1. The first establishment (i.e., the establishment where the first engagement will take place out of the series of performances to be given by the foreign worker) or the

- booking agent acting as third party, is responsible for filing with HRSDC the applications for the group of employers;
2. The first establishment, and all other employers, are each required to submit an “HRSDC Foreign Worker Application for a Labour Market Opinion” form and an employer-employee contract at the time of the filing of the application, outlining the period for which they will be employing the foreign worker, and the terms and conditions of employment (which must, at a minimum, meet the guidelines as described in this bulletin for the employment of exotic dancers). It is important to note that the group of employers is required to provide employment for a combined duration of no longer than one year;
  3. The first establishment (or the booking agent acting as third party) which files the applications for the group of employers with HRSDC is responsible for providing the return airfare for the temporary foreign worker. As mentioned above, employers cannot recover airfare or recruitment costs from the workers.

## **PROCESS**

1. Employers who wish to hire foreign exotic dancers should make [application to HRSDC](#). Employers should include:
  - a. A completed “[Foreign Worker Application Form](#)”
  - b. A completed [Employer/Employee contract](#) for a duration of no longer than one (1) year, signed by the employer
  - c. Evidence of attempts to hire Canadian citizens and permanent residents, including copies of printed advertisements, in keeping with the advertising requirements outlined above.
2. In situations where a group of employers wishes to hire a dancer for a series of engagements:
  - The first establishment (i.e., the establishment where the first engagement will take place out of the series of performances to be given by the foreign worker) or the booking agent acting as third party, is responsible for filing with HRSDC the applications for the group of employers;
  - The first establishment, and all other employers, are each required to submit an HRSDC Foreign Worker Application for a Labour Market Opinion form and an employer-employee contract at the time of the filing of the application, outlining the period for which they will be employing the foreign worker, and the terms and conditions of employment (which must, at a minimum, meet the guidelines as described in this bulletin for the employment of exotic dancers). As mentioned above, the group of employers is required to provide employment for a combined duration of no longer than one year;
  - The first establishment (or the booking agent acting as third party) which files the applications for the group of employers with HRSDC is responsible for providing the return airfare for the temporary foreign worker. As mentioned above, employers cannot recover airfare or recruitment costs from the workers.

3. Employers must be prepared to provide detailed information regarding their efforts to hire Canadian citizens and permanent residents, as explained in the operational directives section of this bulletin.
4. HRSDC will conduct an assessment of the employer's application. HRSDC will contact employers, as necessary, to clarify information provided. On decision, HRSDC will notify the Employer of Record, in writing.
5. Employers should provide a copy of the labour market opinion and the employment contract (signed by them only at this stage) to the foreign worker, for presentation to CIC offices, on application for a work permit.

### **Renewals and Extensions**

Employers who wish to renew a labour market opinion should provide to HRSDC, in advance of the expiry of the foreign worker's work permit, a "Foreign Worker Application To Extend a Labour Market Opinion Form", outlining recent advertising efforts, and a new employer-employee contract for the period for which the renewal is sought to a maximum of 12 months. After receiving a renewal of the labour market opinion, workers can then apply to CIC for an extension of the work permit.

### **Requests for well-known entertainers/exotic dancers for a limited engagement**

In the case of well-known entertainers who are appearing as guest artists for a limited engagement, HRSDC requires a copy of the entertainer's contract showing the venue(s) at which the performer will appear; the number of shows in which the performer will appear; the fee the performer will be paid (per show or as a total amount); and the dates of the engagement(s). The employer is not required to show proof of recruiting within Canada.

Engagements for headliners would not normally exceed two weeks; and as well-known guest artists, these performers would be expected to earn performance fees exclusive of gratuities significantly higher than the wages earned by regular dancers in the establishment.

For more information, please contact [HRSDC regional headquarters](#) in your area.