
EMPLOYER INFORMATION BULLETIN

HIRING OF TEMPORARY FOREIGN WORKERS TO WORK AS EXOTIC DANCERS

A. Objective

The purpose of this document is to inform employers about the rescinding of the Human Resources and Skills Development Canada (HRSDC) national labour market opinion for the entry of exotic dancers, and the implementation of the requirement to process labour market opinions individually.

B. Effect

The HRSDC National Labour Market Opinion for exotic dancers was rescinded in December 2004.

Employers who wish to hire temporary foreign exotic dancers are now required to seek an individual labour market opinion from HRSDC/SERVICE CANADA (SC) in accordance with the procedure described in this document. It will be the responsibility of employers to request this opinion in advance of the worker's application for a work permit.

C. Background

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

HRSDC/SC'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/SC assesses the employer's job offer, HRSDC/SC informs both the employer and CIC of the labour market opinion. If HRSDC/SC confirms the employer's request, workers can then apply to CIC officials who assess foreign nationals' applications for work permits. Foreign worker dancers are required to have work permits.

Pursuant to the *IRPA* regulations, HRSDC/SC will conduct individual assessments of applications for foreign exotic dancers before issuing a labour market opinion. This is consistent with how HRSDC/SC considers requests for other temporary foreign workers. In addition, HRSDC/SC 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.

D. Overview of the procedure for new applications

1. Employers or group of employers who wish to hire exotic dancers will apply directly to a [Service Canada Centre](#) in their region for a [labour market opinion](#). **It is important to note that for positions located in Quebec**, HRSDC/SC 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 Foreign Worker Program operates in Quebec, please visit the Web site of the MICC at the following address: 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/SC will not recognize agencies and booking agents as employers of foreign exotic dancers.
3. However, HRSDC/SC recognizes that for many club owners, it is more convenient to use the services of booking agents for the recruitment of exotic dancers. HRSDC/SC 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/SC will 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 a duration of no longer than one (1) year. Contracts must explicitly contain information on:
 - wages and hours of work per day/week, noting that pay for a minimum of 30 hours of work per week is guaranteed and that the foreign dancer will keep all gratuities and tips;
 - when the employer provides 30 hours of work per week and pays the set wages for 30 hours per week (as required by the Foreign Worker Program), the dancer must work those 30 hours at the employer's established place of work (unless the

- foreign dancer is ill or unavailable);
- duties of the job — must be limited to stage and/or table dancing only, duties cannot include any form of dancing/acts that involve physical contact with club patrons (often referred to as “lap dancing”), nor private dancing, where “private” is defined as not in plain view from the main stage (i.e., behind curtained areas, or in secluded booths);
- assisting the employee to apply for provincial/territorial public health care insurance coverage;
- workplace safety insurance coverage (for which costs cannot be recovered from the employee);
- deductions payable as prescribed by law (e.g. employment insurance, income tax, Canada Pension Plan or Quebec Pension Plan);
- two-way transportation costs (from and to the dancer’s home country) to be covered by employer;
- any costs related to recruitment of foreign dancers must be covered by employer.

A sample contract is provided at :

<http://www.hrsdc.gc.ca/en/epb/lmd/fw/ed/edcontract-e.pdf>.

5. In order to establish that there is a shortage of Canadian dancers available for the jobs for which employers wish to hire foreign dancers, employers must provide HRSDC/SC with copies of printed advertisements as evidence of their efforts to recruit Canadian citizens and permanent residents for **identical employment with the same conditions and benefits being provided to the foreign worker**.

a) The printed advertisements must meet the following requirements:

- i. show the name and location of the place of work (club);
- ii. clearly indicate that the job requires persons to stage and/or table dance only;
- iii. indicate that the work is under an employment contract that includes employment benefits;
- iv. specify the wage/salary being offered, noting that pay for a minimum of 30 hours per week is guaranteed; and,
- v. note that the dancer will keep all gratuities and tips.

The advertisements must run for a minimum of three (3) weeks in the area where the job is located.

b) The employer must submit (with the application) a Summary of the results of the advertising, indicating:

- i. how many Canadians or permanent residents applied,
- ii. how many were hired,
- iii. rationale as to why Canadian/permanent residents were not hired.

6. Employers are required to pay the wage rate identified by HRSDC/SC 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/SC to approve requests if guaranteed wages or salaries 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 (collect) 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 must submit a copy of the valid license for the operation of the adult entertainment establishment(s), issued by the competent authority (e.g., municipality), where the dancer will work as stipulated under applicable provincial and/or municipal by-laws where they exist.
10. Employers are required to assist the employee in applying for provincial/territorial public health care insurance coverage (i.e., obtaining the necessary forms, etc.).
11. Employers are required to register the employee with the provincial workplace safety insurance office (i.e., Worker's Compensation) for the duration of the contract.
12. 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/SC. 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/SC 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:

13. 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/SC will provide a labour market opinion, provided:

- an employer-employee relationship is in place throughout the foreign worker's time in Canada;
- only one employer-employee relationship exists at any given time. HRSDC/SC will not provide confirmations for part-time employment with a group of employers; and,
- 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, in addition to fulfilling the requirements as mentioned above (under section D, paragraphs 1 to 11) for a single employer, the procedure is as follows:

- i. 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/SC the applications for the group of employers;
- ii. The first establishment, and all other employers, are each required to submit an "HRSDC/SC 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;
- iii. The first establishment (or the booking agent acting as third party) which files the applications for the group of employers with HRSDC/SC 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.

E. Making an application

1. Employers who wish to hire foreign exotic dancers should submit an application to a [Service Canada Centre](#). Employers must include:
 - i. A completed "[Foreign Worker Application Form](#)"
 - ii. A completed [Employer/Employee contract](#) for a duration of no longer than one (1) year, signed by the employer
 - iii. A copy of the current license for the operation of the adult entertainment establishment(s), issued by the competent authority (i.e., municipality)
 - iv. A summary of the advertising campaign (as explained in paragraph 5 of Section D referred 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/SC the applications for the group of employers;
 - The first establishment, and all other employers, are each required to submit an HRSDC/SC 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/SC 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. HRSDC/SC will conduct an assessment of the employer's application. HRSDC/SC will contact the employer, or the first establishment in the case of a group of employers, as necessary, to clarify information provided. On decision, HRSDC/SC will notify the Employer of Record, in writing.
4. 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, when applying for a work permit.

F. Making an application to extend a labour market opinion

1. Employers who wish to renew (extend) a labour market opinion must provide a "Foreign Worker Application To Extend a Labour Market Opinion Form", outlining recent recruitment efforts, and a new employer-employee contract for the period for which the renewal is sought to a maximum of 12 months. Evidence of recent recruitment efforts (prior to expiration of dancer's work permit) and new contract must adhere to requirements stipulated above in section D, paragraphs 4 and 5. Renewal applications should be received by HRSDC/SC three months before the expiry of the foreign worker's work permit in order to allow adequate application processing time.
2. For renewals, employers are also required to provide evidence that:

- a. the wages and deductions as per the first contract were actually paid to the worker as per the T4 Information filed by the employer with the Canada Revenue Agency.
- b. the worker has been registered with the provincial authority responsible for workplace safety insurance (worker's compensation), by providing a copy of the Clearance Certificate or similar document issued by the workplace safety insurance office which indicates that the employer is registered and in good standing with the office.

Your request may be refused if you don't provide the additional requested documents in your application package. Once HRSDC/SC has issued a confirmation to extend the labour market opinion, workers can then apply to Citizenship and Immigration Canada (CIC) for an extension of the work permit.

G. Making an application for a headliner dancer

1. In the case of well-known entertainers who are appearing as guest artists for a limited engagement, HRSDC/SC requires a copy of the entertainer's contract (signed by the employer) showing the venue(s) where 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 date(s) of the engagement(s)/performance(s). The employer is not required to show proof of recruiting within Canada.
2. 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 the [Service Canada Foreign Worker Program unit regional headquarters](#) in your area.

Request for Labour Market Opinion - APPLICATION CHECKLIST

The employer is responsible for ensuring that all required documents are submitted together with the application(s). To avoid processing delays, **please do not submit your application until all relevant documents have been included.** Use this checklist as a guide and in combination with the *Employer Information Bulletin*.

REQUEST TO HIRE A TEMPORARY EXOTIC DANCER WHO IS NOT A HEADLINER

- A complete and signed “**Foreign Worker Application for a Labour Market Opinion**” form or “**Foreign Worker Application to Extend a Labour Market Opinion**” form (in the case of a request to renew/extend an existing labour market opinion) with all relevant boxes filled in. *Renewal applications should be received by HRSDC/Service Canada (SC) three months before the expiry date of the temporary foreign worker’s work permit to allow for adequate processing time.*
- If applicable, ensure that the “**Appointment of Representative**” section of the application form is complete and signed or provide a signed letter on the company’s letterhead appointing a third party representative.
- A complete “**Employer-Employee Contract**” for a duration of no longer than one year, signed by the employer. *The contract must include information on all of the points listed in section D-4 of the Employer Information Bulletin. (Note the new mandatory requirements which are effective March 1/2006: workplace health and safety coverage, duties cannot include acts that involve physical contact.)*
- A copy of the **current license for the operation of the adult entertainment establishment(s)**, issued by the competent authority (municipality) where applicable.
- Proof of **efforts to recruit** Canadian citizens and permanent residents in the area where the job is located. *Proof is: copies of print advertisements that contain the same working conditions as the employer’s application form, receipts showing that the advertisement(s) ran for at least 3 weeks, a summary of Canadians/permanent residents who applied and justification why they were not hired.*
- A **summary of the results of the advertising campaign**: Did Canadians apply? If so, why were they not hired? Please consult section D-5 of the *Employer Information Bulletin* for more information.

To request a renewal (extension) of an existing labour market opinion for an exotic dancer, also include:

- Evidence that the wages and deductions as per the employment contract were paid, by providing a copy of the information **filed by the employer with the Canada Revenue Agency relating to wages paid to the foreign worker.** (Refer to section F of the *Employer Information Bulletin* for specifics.)
- Evidence that the employer is registered and in good standing with the provincial/territorial authority responsible for **workplace health and safety insurance** (worker’s compensation). E.g., employers in Ontario must provide a copy of the WSIB-issued Clearance Certificate, employers from other provinces must provide a similar document issued by the provincial/territorial authority. Refer to section F of *Employer Information Bulletin* for more information.

REQUEST TO HIRE A HEADLINER EXOTIC DANCER

- A complete and signed “**Foreign Worker Application for a Labour Market Opinion**” form with all relevant boxes filled in.
- If applicable, ensure that the “**Appointment of Representative**” section of the application form is complete and signed, or provide a signed letter on the company’s letterhead appointing a third party representative.
- A copy of the performer’s **contract**, signed by the employer, 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; and the dates of the engagement(s)/performance(s), which would not normally exceed 2 weeks.
- A copy of the **current license for the operation of the adult entertainment establishment(s)**, issued by the competent authority (municipality) where applicable.