



WHAT IS AN LMIA

[August 2018]

Before You Try to Get a Labour Market Impact Assessment— What You Need to Know

LMIA's are difficult to get. There are no guarantees. Keep in mind that your prospective employer has to complete an onerous application to prove they cannot find a Canadian for the position.

Very Important

Those on LMIA-based work permits can still be laid-off or let go. Just as Canadian employees can lose their jobs due to cutbacks, so too can temporary foreign workers. In fact, temporary foreign workers will be laid-off or let go before Canadians. LMIA's are non-transferable. They lead to closed work permits with specific employers. You cannot simply move to a new employer. It is not advisable to lay deep roots (IE purchase a house or move an entire family over) until you have your [Permanent Residency](#).

What is an LMIA?

A Labour Market Impact Assessment is:

- an approval from Employment and Social Development Canada ([ESDC](#)) for an employer to hire a Temporary Foreign Worker

See [here](#).

Two Main Types for skilled workers:

LMIA for a Permanent Job Offer

NOC 0, A or B positions (see [here](#))

- no application fee
- does not lead to a work permit **but**
- supports your [Express Entry](#) application
- approx. 10 – 20 days to process

LMIA for a Temporary Job Offer

NOC 0, A or B positions (see [here](#))

- \$1000 application fee
- eligibility for a work permit
- can be used to support your Express Entry application (must be NOC 0, A or B position) *when combined with a confirmed offer of at least one year of full-time employment* from your employer upon your becoming a permanent resident
- can take several months to process

The major differences:

- processing times
- fee
- eligibility for a work permit

If you are applying for PR under Express Entry and your current work permit has lots of time on it, the LMIA Permanent Job Offer **may** be the better route. You must assess your situation and decide.

Owner/Operator LMIA's

See [here](#) from ESDC:

“These positions are for business owners only. They are not intended for individuals receiving shares as part of a compensation package. To qualify as an owner/operator, foreign nationals must demonstrate prior to submitting their application, and for the duration of their employment in Canada:

- they have controlling interest in the business:
 - by being the sole proprietor, or
 - by being a majority shareholder (hold a minimum of 50.1% of the shares), or
 - by providing an official document to confirm that one shareholder has controlling interest
- they cannot be dismissed.”

The above examples are by no means exhaustive. See [here](#) for a full explanation of the Temporary Foreign Worker Program (including the Global Talent Stream and in-home caregivers).

Who applies for an LMIA?

LMIA applications are employer-driven. All costs related to an LMIA (advertising costs, processing fee, assistance from an authorized third party representative) must be paid by the employer and cannot be recovered directly **or** indirectly from the temporary foreign worker. The employer must attest to this on the LMIA application form.

How does my employer apply?

Employers must do their own research. The penalties re non-compliance are severe.

See here re [applying](#).

What may happen after my employer applies for an LMIA?

ESDC/Service Canada may follow up with the employer requesting further information. If the employer has applied for an LMIA (or LMO) in the past, an application for an LMIA may trigger an Employer Compliance Review. If this happens, the triggering LMIA application will be placed on hold until the Employer Compliance Review has completed. The employer will receive a decision letter (timing can vary and can be up to 4 months). If the decision is positive, the employer gives the employee a copy of the LMIA approval letter **and** a letter of employment/contract. If this is for **a temporary job offer**, the employee then applies for a work permit (either online/by post from within Canada, or at the border). If the employee also wishes to use the LMIA for an Express Entry application s/he adds the LMIA information and the LMIA-based work permit information to his/her [Express Entry profile](#).

NB: For the permanent residence application, a letter from the employer confirming that s/he will offer the temporary foreign worker one year of full-time employment upon him/her becoming a permanent resident is required.

In all cases, follow IRCC and ESDC's instructions.

What if my role is LMIA-exempt?

The [International Mobility Program](#) (IMP) lets employers hire temporary workers without an LMIA. Exemptions from the LMIA process are based on

- broader economic, cultural or other competitive advantages for Canada; and
- reciprocal benefits enjoyed by Canadians and permanent residents.

Find out if you need an LMIA [here](#).

If an employer hires a temporary worker through the IMP, they will need to pay an employer compliance fee and submit an offer of employment form to IRCC. This must be done before the foreign national can apply for a work permit. The employer will submit the offer of employment through the [Employer Portal](#).

In all cases, follow IRCC and ESDC's instructions.

What does the employee take with him/her if activating the work permit at the border?

- LMIA Approval Letter
- Letter of Employment/Contract that matches the LMIA approval letter
- Résumé
- Proof that you have the skills to do the job (certificates, diplomas, letters of reference)
- Passport (up-to-date with validity for the entire duration of the work-permit)
- Current status document (if in Canada)—work permit or visitor record—showing proof of valid legal status in Canada
- Applicable fees

- **NB:** if LMIA-exempt, there are other documents you will need such as: Offer of Employment Number and proof the employer has paid the application fee. Your employer will give these to you. More items may apply—check with the appropriate authority.
- **This is an overview only. In all cases, follow IRCC and ESDC's instructions.**

This guide is an overview only—please consult IRCC for all programs and details.

Please note IRCC rules and regulations can be updated at any time. Be sure to clear your cookies and cache to get the most up-to-date documents and checklists as you complete your application.

This guide cannot be relied upon from a legal perspective. I/CAN provides information—[not advice](#). This information is gleaned from IRCC's website. Before proceeding, verify all information with IRCC.

