



THE CANADIAN BAR ASSOCIATION
L'ASSOCIATION DU BARREAU CANADIEN

October 26, 2007

Via Fax: (819) 994-0448

The Honourable Monte Solberg, P.C., M.P.
Minister of Human Resources and Social Development
140 Promenade du Portage
Gatineau, QC K1A 0J9

Dear Minister Solberg:

**Re: Labour Market Opinions for Canadian employers wishing to bring workers to
Canada**

I write on behalf of the Citizenship and Immigration Law Section of the Canadian Bar Association (CBA Section) concerning the current lengthy delays in obtaining Labour Market Opinions (LMOs) for Canadian employers wishing to bring workers to Canada. The CBA is a national association representing over 37,000 jurists across Canada and our mandate includes improving the law and administration of justice. It is from this perspective that we raise this concern with you, and offer some potential solutions.

We know you are aware of the problem and we applaud the recently announced "Expedited Labour Market Opinion Pilot Project," which expedites LMOs for 12 occupations in Alberta and British Columbia. This Pilot Project potentially could affect 25% of Service Canada's workload in these regions, and we view this as a very positive step towards removing the backlogs. However, the Pilot Project alone will not solve the problem. The remaining workload of Service Canada is severely backlogged and in crisis. Currently, LMOs take 16-20 weeks in British Columbia and Alberta, for example. The only relief employers have received is shorter periods for advertising to locate employees. Even after the creation of the Regional Lists of Occupations under Pressure in November 2006, the processing times for LMOs have worsened, and the new pilot project affects only a small number of professions.

These delays, along with the inordinate delay in the issuance of work permit renewals and extensions through the Case Processing Centre in Vegreville, have had a snowball effect on the ability of Canadian employers to access sufficient labour to run their businesses. We are also writing to your colleague Minister Finley about this related problem.

The strong economy in Canada continues to fuel the need for labour, both high skilled and low skilled, and employers are suffering the consequences of the delay. Accordingly, we urge your Department to take immediate steps to correct these currently lengthy processing times. One such step would be to reinstate the LMO unit in Calgary. Experienced staff of the former unit in the Calgary area would be able to make it functional relatively quickly.

We were pleased that you were able to meet with the Section executive in April 2006 during our conference in Quebec City. Our Section executive will be in Ottawa November 1-4, 2007. We would welcome an opportunity to meet with you again on or around those dates to discuss our suggestions for further initiatives HRSD could undertake to ensure that LMOs are no longer part of the bottleneck delaying Canadian employers from hiring the labour they so desperately need.

Yours very truly,

(original signed by Kerri Froc for Alex Stojicevic)

Alex Stojicevic
Chair, National Citizenship and Immigration Law Section

cc: The Honourable Stockwell Day, P.C., M.P.
Minister of Public Safety

cc: The Honourable Diane Finley, P.C., M.P.
Minister of Citizenship and Immigration



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October 26, 2007

The Honourable Diane Finley, P.C., M.P.
Minister of Citizenship and Immigration
365 Laurier Avenue West
Ottawa, ON K1A 1L1

Dear Minister:

Re: Work Permit and LMO Processing Delays

I am writing on behalf of the National Citizenship and Immigration Law Section of the Canadian Bar Association (CBA Section) about problems affecting thousands of Canadian businesses and their employees: processing delays and other institutional obstacles in bringing workers to Canada. The CBA is a national association representing over 37,000 jurists across Canada and our mandate includes improving the law and administration of justice. It is from this perspective that we raise this concern with you, and offer some potential solutions.

Work Permit Processing Delays at CPC Vegreville

First, there is inordinate delay in issuing work permit renewals and extensions through the Case Processing Centre in Vegreville. With processing now approaching 61 days on average, this slowdown is causing real hardship to people and a climate of uncertainty for many Canadian employers and their employees. Even though implied status allows many people to continue working while their work permit extensions are being processed, medical coverage in most provinces, driver's license issuance and renewal and many other basic services are tied to valid work permits under provincial or territorial legislation. Consequently, employers face unpredictability in planning employee business travel and coverage for benefits, such as medical expenses. When employees in implied status must travel, applications pending in Vegreville must be refiled with Temporary Foreign Worker Units, Ports of Entry, and consulates. If family members are not traveling with the worker, their renewal or extension applications must be continued through Vegreville, duplicating resources and creating another source of potential confusion. The family applications are sometimes ended by mistake, necessitating an application for reinstatement. The delay at CPC Vegreville therefore has a cascading effect on the workload of CIC and CBSA staff.

We recognize that resourcing issues within CIC are complex. However, given the urgency of the situation we ask that you review this matter on an expedited basis and make additional resources available at CPC Vegreville to alleviate the delays and the considerable hardship they create.

Labour Market Opinion Delays

A second issue is the processing delays for Labour Market Opinions (LMOs) with Service Canada. We are also writing to your colleague Minister Solberg about this issue. However, a solution will require assistance and guidance from your Department, as it holds the policy mandate for immigration matters. We believe these delays could be solved, in part, by issuing ministerial guidelines in accordance with the *Immigration and Refugee Protection Regulations* s. 205 (work permits issued in Canadian interests), directing CIC and CBSA officers to be facilitative rather than restrictive in the application of LMO exemptions to work permits. This would alleviate current labour market shortages and the pressure on HRSD foreign worker units.

In recent years, CBSA officers have taken a far more restrictive approach in the issuance of work permits, and now routinely require LMOs. This only compounds the problem of delay in receiving LMOs. In past years, claimants were frequently permitted to rely on exemption codes such as C-10 (significant benefit to Canada) to obtain work permits without LMOs. The current Foreign Worker Manual discussion on Significant Benefit to Canada discourages issuing work permits under this category. In addition, it points out that a work permit should be issued under this exemption category only when it can be demonstrated that all reasonable efforts have been utilized to obtain a LMO.

Exceedingly strict interpretations of these exemptions defeat their very purpose. The exemptions for work permit under C-10, C-11 (self employed/entrepreneurs) and C-12 (intra-company transferees), were intended to facilitate speedy entry of persons into Canada. The policy guidelines for these exemption code categories currently have detailed and restrictive wording of the criteria to be assessed. As a result, many officers are reluctant to issue such permits or will issue them only for short periods of time. A Ministerial directive that officers should facilitate the issuance of work permits under exemption codes C-10, C-11, and C-12 as much as possible, with appropriate guidelines, would help alleviate the current labour market crisis without the need for any legislative change or allocation of additional financial and staffing resources.

Further, CIC could develop programs similar to the Information Technology Workers program to facilitate the immediate entry of certain occupations into Canada without the need for a LMO, in accordance with *IRP Regulations* s. 203. The Software Development Workers' Pilot Project was implemented by way of Operations Memoranda in May 1997, and has been modified and remained consistently in effect since. With over 10 years of successful implementation, this is an excellent model to expand to other key sectors of the economy. CIC could utilize the data gleaned from the Regional Occupations under Pressure List, as well as information readily available from provincial and territorial governments and industry associations,¹ to determine other key sectors that could utilize this model.

¹ See, for example, labour market information from Alberta Employment, Immigration and Industry, online: <http://employment.alberta.ca/cps/rde/xchg/hre/hs.xsl/2599.html>

Work Permit Processing Delays Abroad

Finally, we wish to draw your attention to the related problem of delays in processing work permits that are rapidly building up at CIC visa offices abroad. We appreciate that this is largely a result of increased volume and that it will be difficult to see improvements without a government commitment to increase resources to your Department. However, together with the delays at CPC Vegreville and in the LMO process, these delays are creating serious problems and frustrations for Canadian employers. We believe that some of the pressure could be alleviated by innovations in processing that would not demand additional resources. For example, concurrent processing of LMOs and work permits at visa offices could be extended to low-skilled occupations.² Allowing applicants to do their medical examinations in advance of filing their applications (as you already do with spousal applications) would also speed up processing without adding significantly to costs. As well, Temporary Foreign Worker Units could issue opinions on LMO exemption requests for cases destined for visa offices, thereby reducing their backlogs.

The CBA Section urges you to take immediate action to resolve the current lengthy delays for Canadian employers, so that they are able to obtain the high skilled and low skilled labour needed to build the Canadian economy. Administrative changes would alleviate some of the pressure, but the only way this problem will be solved completely is through resources. The immediate crisis in CPC Vegreville should be addressed immediately by additional resources.

Our Section executive will be in Ottawa November 1-4, 2007. We would welcome an opportunity to meet with you at that time, so that we may introduce ourselves and discuss how the CBA Section may be of assistance to you in identifying and resolving citizenship and immigration issues that develop "on the ground."

Yours very truly,

(original signed by Kerri Froc for Alex Stojicevic)

Alex Stojicevic
Chair, National Citizenship and Immigration Law Section

cc: The Honourable Stockwell Day, P.C., M.P.
Minister of Public Safety

cc: The Honourable Monte Solberg, P.C., M.P.
Minister of Human Resources and Social Development of Canada

² Ironically, in CPC Vegreville, concurrent processing is offered only to *low-skilled* occupations. Concurrent processing to both low-skilled and high-skilled workers would also improve processing times.