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Baird.Jenna

From: Immigration Representatives / Représentants immigration (IRCC)
Sent: April 26, 2018 2:04 PM
To:
Cc: Immigration Representatives / Représentants immigration (IRCC)
Subject: FW: How to add duties to an issued IMP work permit - REP-2018-0587 -

Hello,

Please find below the response to your inquiry. We hope this information is helpful.

Question:

Would submitting a new Offer of Employment IMM5802/Employer Compliance submission with the additional duties for the same employer and same NOC be sufficient to allow a foreign worker to take up the additional duties? The salary/remuneration may or may not increase due to the increase in duties and hours to be worked. Would the foreign worker need to apply for a new work permit?

Response:

Providing additional duties, thereby increasing weekly hours, and a salary that is higher salary to the foreign worker than the salary indicated on the Offer of Employment submitted to IRCC after the work permit was issued would not require the foreign national to obtain a new work permit. Typically, a foreign worker does not need a new work permit unless there has been a change to the conditions that affect the worker – i.e. employer, occupation or location. Or, if the change in working conditions negatively impacts the worker, such as reduction in hours or salary, then a new Offer of Employment and a new work permit would be required before the change takes effect, otherwise the employer risks being found non-compliant with the original job offer submitted to IRCC.

The employer cannot amend duties, hours or salary information in the Offer of Employment that was submitted to IRCC after the work permit has been issued to the foreign worker.

Proactive notification to IRCC of inconsistencies surrounding working conditions are not required under the International Mobility Program. However, the employer who provided the offer on which the work permit is based is still responsible for ensuring that the wages and benefits are consistent with what was stated in the offer of employment. Employers may be inspected on the conditions listed above and, therefore, they will have to provide proof at the time of inspection that they met these conditions or provide a justification as to why they did not. The employer must keep all documents related to any changes from the original Offer of Employment submitted to IRCC.

Additional points to note:

- An increase in wages may result in a finding that the employer did not provide “substantially the same” wages if the increase would have affected the ability of the foreign national to qualify for the LMIA-exemption.
- Wages under the International Mobility Program must meet the minimum wage requirement in the province of employment as per the condition to meet federal or provincial laws. Wages paid that are higher than those in the offer of employment, may indicate a change in duties that would mean a different occupation than offered. In that case, a new Offer of employment and new work permit may be required.
- In cases where the employer has promoted or otherwise changed the foreign worker’s duties outside of the original NOC, the foreign worker must receive a new Offer of Employment and work permit prior to implementing the change. If a new work permit for the promotion or change in occupation has not been previously approved and the temporary

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foreign worker is found to be working in an occupation other than what was stated on the Offer of Employment, this may constitute non-compliance by the employer.

· Foreign workers are also subject to other federal (such as ESDC who leads the Temporary Foreign Workers Program) and provincial or territorial legislative and regulatory requirements. Employers should also meet those requirements for compliance purposes.]

Sincerely

The Immigration Representatives Mailbox

From:

Sent: April 4, 2018 2:27 PM

To: Immigration Representatives / Représentants immigration (IRCC) <IRCC.ImmigrationRepresentatives-Representantsimmigration.IRCC@cic.gc.ca>

Subject: How to add duties to an issued IMP work permit

Hi there,

Would submitting a new Offer of Employment IMM5802/Employer Compliance submission with the additional duties for the same employer and same NOC be sufficient to allow a foreign worker to take up the additional duties? The salary/remuneration may or may not increase due to the increase in duties and hours to be worked. Would the foreign worker need to apply for a new work permit? If so, how can this be done as previously work permit applications for the same employer, same NOC for the same duration of an already issued work permit have been refused.

Any guidance you can provide on this would be greatly appreciated.

Cheers,
