

Looking at an application in GCMS:

- **On the main screen-** NOC, position title
- **Employment details tab** -LMIA tab- refresh
 - Job requirements, Language requirements
 - job duties
 - LMIA validity- Should be valid when application was received

Interpreting LMIA/ NOC requirements:

- Use of “usually, is, may, or, combined with, several years”.
- Usually is generally, normally, commonly and is taken as “is required”
- several years of experience— as per LMB, the guidance provided in the NOC, for “several years of experience” is vague. According to LMB, the definition of several is more than two.

Examples:

NOC 63200 - Cook - Completion of secondary school is **usually** required. / Completion of a three-year apprenticeship program for cooks **or** Completion of college **or** other program in cooking **or** Several years of commercial cooking experience **are** required.

NOC 62020 - Food Service Supervisor- Completion of secondary school is **usually** required. / Completion of a community college program in food service administration, hotel and restaurant management or related discipline **or** Several years of experience in food preparation or service **are** required.

NOC 12200- Accounting technicians and bookkeepers- Completion of a college program in accounting, bookkeeping **or** a related field **or** Completion of two years (first level) of a recognized professional accounting program (e.g., Chartered Accounting, Certified General Accounting) **or** Courses in accounting or bookkeeping **combined with** several years of experience as a financial or accounting clerk are required.

NOC 85103- Nursery and greenhouse labourers- Completion of secondary school **may** be required. / Completion of college courses in horticulture or a related field be required/ A provincial licence to apply chemical fertilizers, fungicides, herbicides and pesticides **may** be required.

No Requirements LMIA's:

i.e no specific education, experience or language requirements.

Commonly seen NOCs-

Harvesting Labourers- 85101

s.16(1)(b)

s.16(1)(c)

Construction Trade Helpers- 75110

Livestock Labourers- 85100

Nursery and Greenhouse workers- 85103

- Though some applications in the these NOCs may have a language requirement.
- In the absence of requirements, the angle of “vulnerable workers”
- TIE on farm workers conducted in Delhi in April 2023- Applicants interviewed-

Language:

Language Test results **NOT** provided:

1. **If language is NOT a requirement**, cannot refuse. In case of a concern that performing specific job duties would require language ability, send PFL.
2. **If language is a requirement**
 - i. Refuse. However, do consider all other evidence like secondary school marksheets, test scores from other agencies (not accepted by IRCC), submissions etc.
 - ii. Can approve if satisfied based on applicant’s education, work history and overall profile
 - e.g premier educational institutions, MNCS, 5 star hotels, international work experience etc. – local knowledge is key.

Language Test results provided

- not satisfied that scores sufficient (are low) to perform the specific job duties- can refuse giving explanation.
- Tests taken at home-Not considered reliable, could send a PFL giving applicant an opportunity to provide IELTS within 30 days.

Truck Drivers :

- Specific licensing and Mandatory Entry level Training (MELT) is a requirement. However, since these can only be obtained/ completed once the applicant is in Cda, cannot refuse for lack of evidence.

s.16(1)(b)

s.16(1)(c)

- Even though Truck driving experience is NOT a requirement, Applicant usually provide reference letters, bank statements, permit, license copies, PCCs etc.

Job offer:

- We generally do not question the LMIA approved by ESDC regarding concerns on employer's ability to hire foreign workers, if the employer / business actually exists etc.
- In case of a noticeable trend or pattern (seen through a number of applications), could bring it to the attention of RAU for further review.

Concerns with LMIA:

- No LMIA or LMIA-E number provided- Refuse
- LMIA Number provided- does not appear genuine or screen does not populate- contact ESDC to conform if LMIA # is valid- if invalid, send A40 PFL.
- If LMIA details do not populate on the Employment details screen, could cross check with ESDC
- If applicant's name is not listed on the LMIA screen- if number of applicants equals the number of positions, refuse. If not, could contact ESDC.

Education:

If education is a requirement

- The institution is fake/ of concern/ unrecognized (based on RAU findings) e.g

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Send PFL.

Client's Immigration History:

- Previous applications- inconsistency wrt employment, education, experience- PFL
- Previous A40 (misrep) refusal. Though PA may no longer be inadmissible (i.e. the 5 year ban period is over), carefully examine other factors
 - intent - was it PR the previous time
 - Purpose and relevancy - misrep could have been on a SP or LMIA whereas present application is OWP.

- **Insufficient vs fraudulent:**

- When evidence is insufficient – refuse on not being satisfied that requirements are met. LMB's guidance- The Officer has to explain why the Applicant's evidence did not satisfy the Officer or was insufficient.
- When evidence appears fraudulent/ not genuine/ inconsistent info. / credibility findings- PFL (A16 or A40)

Other Key pointers:

- **Funds** is generally a factor to consider when family is accompanying.
- Apparent **mismatch in applicant's profile**-
 - Applicant's education level does not match the intended occupation- an obvious step down- consider wage package too
 - local realities – uncommon in India for Women to be farmers, truck drivers.
 - Sudden unexplained shift in occupation – e.g home maker for most part and now a sales supervisor.
- **NOC vs LMIA**: We go by the NOC requirements (exception could be T13 where eligibility is to be assessed by the province)
- **Secondary school**- Most NOCs have completion of secondary school as a requirement. If transcripts NOT provided, could refuse. However, if evidence of higher education like Bachelors etc is provided, that's Ok.
- **Duplicate UCIs**- Pre-assessors not doing GCMS search on LMIA applications. Watch out for duplicate UCIs- household not done- may have adverse information.
- **Refusals**- When refusing based on info. in pre-assessment notes e.g no language test results provided, officers should review all e-docs to be sure. Pre-assessors could miss in error.
- **Referring for Interviews and verifications**:
 - List specific concerns/ identify document(s) to be verified
 - How would the outcome be material or relevant?