# Tabling of a Draft Regulation on Personnel Placement Agencies and Temporary Foreign Worker Recruitment Agencies

**May 13, 2019**

On June 12, 2018, Bill 176, entitled *An Act to Amend the Act respecting Labour Standards and Other Legislative Provisions Mainly to Facilitate Family-Work Balance,* was adopted and assented to. The Bill made a number of amendments and additions to the *Act respecting Labour Standards* (the ALS), which were reviewed in the newsletter that we published on June 22, 2018.

Among those changes, new provisions were introduced concerning personnel placement and temporary foreign worker recruitment agencies (collectively, agencies). Those provisions were to take effect upon the coming into force of the enabling regulation. The Draft *Regulation respecting personnel placement agencies and temporary foreign worker recruitment agencies* (the Draft Regulation) was published on April 10, 2019. This newsletter summarizes what agencies need to know about the Draft Regulation.

First, the Draft Regulation defines what a personnel placement agency is and what a temporary foreign workers recruitment agency is:

> "personnel placement agency" means a person, partnership or other entity that has at least one activity consisting in offering personnel leasing services by providing employees to a client enterprise to meet its labour needs;
>
> "temporary foreign worker recruitment agency" means a person, partnership or other entity that has at least one activity consisting in offering services for the recruitment of temporary foreign workers for a client enterprise or in assisting the enterprise in its efforts to recruit such workers[1].

The Draft Regulation proposes to establish a mandatory licencing system for carrying out the activities of an agency. Any person, partnership or other entity wishing to obtain an agency licence must therefore apply for the licence, which is issued by the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (the CNESST)[2]. The Draft Regulation further provides for the conditions of issuance, renewal and maintenance of each such licence.

With respect to the issuance of licences[3], in addition to providing the information required by the CNESST, a person wishing to obtain a licence must pay the annual fees, in the amount of $1,780, which are payable in two equal annual instalments[4], and, in the case of a personnel placement agency, provide a security of $15,000. The purpose of the security is to guarantee the payment of unpaid amounts that may be due to an agency employee by the licence holder or a client enterprise, following a judgment or a transaction resulting from a pecuniary complaint filed with the CNESST. The licence holder must make up the security provided, so that it meets the amount of $15,000 for the entire term of the licence[5].

The objective of the amendments made to the ALS in June 2018 being to put a stop to illegitimate agencies engaging in objectionable practices, the Draft Regulation identifies several categories of persons whose licences may be refused, suspended or revoked[6]. For example, an enterprise which, in the two (2) years preceding its application, has been placed under a receivership order or a winding-up order for insolvency, falls into one of those categories. Similarly, an enterprise which, in the five (5) years preceding its application, has itself been found guilty, or one of whose officers has been found guilty, of a penal or a criminal offence which, in the opinion of the CNESST, is connected with the carrying on of activities for which the licence is applied for, may not become a licence holder.

Another category which attracts our special attention includes any person who, within five (5) years preceding the application, has been condemned by a court for discrimination, psychological harassment or reprisals, as part of employment. We would note that this latter category, drafted as it is in extremely wide terms, could have major consequences for agencies, triggering the refusal, suspension or revocation of their licences pursuant to decisions rendered by various courts or tribunals, particularly in civil matters, human rights or labour standards cases.

Before refusing to issue a licence, the CNESST is obliged to notify the person, partnership or other entity concerned and grant the applicant a period of at least ten (10) days to present observations. Within 30 days of the presentation of observations, the CNESST must render a decision in writing, with reasons[7].

Once granted, licences are valid for a term of two (2) years and may not be transferred[8]. Licences may be renewed on application to the CNESST at least 60 days before their expiry[9]. The Draft Regulation also enacts new obligations for agencies with respect to their employees when they obtain their licences. Some of these duties are general ones, such as the mandatory display of a licence in their establishments and the indication of licence numbers on every document commonly used, while others relate specifically to agencies of one or the other type.

Agencies must give employees assigned to a client enterprise and temporary foreign workers the following documents at the time of their assignment or recruitment[10]:

- a document describing the working conditions that apply to them, including the wages offered;
- information documents made available by the CNESST concerning employees' rights and employers' obligations in respect of labour.

Furthermore, agencies must keep, for at least six (6) years, the contracts concluded with each client enterprise and the invoices related to such contracts. More specifically, **personnel placement agencies**, for each of the employees, must keep the information on the total number of hours of work per day and per week for each of the client enterprises. Similarly, **foreign temporary worker recruitment agencies** must also keep, for each of the temporary foreign workers, the information on the date of hiring of such workers by the client enterprise[11].

A personnel placement agency must also remind the client enterprise of its obligations regarding occupational health and safety under the *Act respecting occupational health and safety*[12].

In addition, **personnel placement agencies** are prohibited from charging an employee fees for their assignment to a client enterprise, for the training required for that assignment or for assistance or advice received in preparation for job interviews[13] . Such agencies are also prohibited from taking measures or agreeing on provisions preventing or restricting an employee's hiring by the client enterprise, beyond a period of six (6) months following the beginning of the employee's assignment to that client enterprise[14].

**Temporary foreign worker recruitment agencies** are prohibited from requiring any temporary foreign worker to entrust to them the custody of their personal documents or property or from charging fees for the recruitment other than those authorized under a Canadian government program[15].

Finally, the Draft Regulation contains transitional provisions that include the following obligations for agencies:

- **any agency** that obtains its licence while already carrying on agency activities without holding such a licence must, within five (5) days following the issuance of its licence, notify every client enterprise with which it has an existing contract that henceforth it is a licence holder and of the type of licence issued to it[16];
- as of the date on which a licence is issued for the first time to a **personnel placement agency** which is carrying on such activities, the agency must, within five (5) days following the issue of the licence, give to every employee already assigned to a client enterprise the document describing their working conditions during the assignment, as well as the information documents made available by the CNESST concerning employees' rights and employers' obligations in respect of labour[17].

By adopting the Draft Regulation to govern personnel placement agencies and temporary foreign worker recruitment agencies, Québec is acting as a leader among the other provinces of Canada. The provisions of the Draft Regulation will oblige agencies to comply with a rigorous process of licencing and licence renewal. It is important to recall that violations of the obligations contained in the Draft Regulation may entail the suspension or revocation of licences. Moreover, breaches of the provisions of the ALS are punishable by fines of $600 to $6,000 and, for repeat offences, $1,200 to $12,000.

There are certain risks for client enterprises that make use of the services of temporary foreign worker recruitment agencies. The reason why such agencies are prohibited from keeping the personal documents of foreign workers is bound up with the issue of

modern-day slavery and its present meaning. Slavery today is not limited to being chained and forced to work, but also includes any action taken to control a worker's movements or to prevent them from enjoying the freedom to cease working. So, by keeping the worker's documents, an "employer" ensures that the worker cannot simply get up and leave the job if they are unsatisfied with their working conditions. In consequence, it will be important for any client enterprise hiring temporary foreign workers to make sure that the agency with which it is doing business is complying with its obligations, and that the foreign workers have all their immigration documents in their possession. Should the client enterprise fail to do that, it could potentially find itself implicated in, and party to, a criminal offence[18].

In conclusion, following the publication of the Draft Regulation, the Minister of Labour will receive comments from the public until June 27, 2019. Although no firm date has as yet been set, we believe that the Draft Regulation will come into force towards the autumn of 2019. We also foresee that, between now and then, it will undergo a number of amendments. We will keep you informed of all relevant developments in that regard.

[1] Section 1 of the Draft Regulation.

[2] See sections 4 to 7 of the Draft Regulation for all the information and documents to be provided in the licence application.

[3] See section 8 of the Draft Regulation for all the conditions to be met in order to obtain a licence.

[4] Sections 8(2) and 16 of the Draft Regulation.

[5] Sections 24 and 29 of the Draft Regulation.

[6] See sections 9 and 34 of the Draft Regulation for all the categories of person who may be refused a licence or have it suspended or revoked.

[7] Section 11 of the Draft Regulation.

[8] Section 10 of the Draft Regulation.

[9] Section12 of the Draft Regulation.

[10] Sections 19 and 21 of the Draft Regulation.

[11] *Ibid*.

[12] Section 19 of the Draft Regulation.

[13] Section 20 of the Draft Regulation.

[14] Section 20 of the Draft Regulation.

[15] Section 22 of the Draft Regulation.

[16] Section 41 of the Draft Regulation.

[17] Section 43 of the Draft Regulation.

[18] See sections 279.01, 279.02, 279.03 and 279.04 of the *Criminal Code*, dealing with offences connected with trafficking in or exploitation of persons, including trafficking in persons to obtain a material benefit, and removing or withholding travel documents or any document establishing another person's identity or immigration status, in order to facilitate or commit such offences.

By

Danny J. Kaufer, Myriane Le François, Shwan Shaker, Rose Massicotte

Expertise

Labour & Employment

---

**BLG | Canada's Law Firm**

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

**blg.com**

**BLG Offices**

**Calgary**
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

**Ottawa**
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

**Vancouver**
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

**Montréal**
1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

**Toronto**
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription

preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.