

May 27, 2014

The Honourable Jason Kenney, PC, MP
Minister of Employment and Social Development Canada
140 Promenade du Portage
Gatineau, Quebec
K1A 0J9

Dear Minister:

Thank you for taking the time to meet with Restaurants Canada Chair Liam Dolan, President and CEO Garth Whyte and myself recently to discuss the TFW foodservice moratorium and reforms planned for the program.

We believe that the suspension wrongly targets our sector and is unfair to the vast majority of restaurant businesses that operate in full compliance of program rules. The suspension has created a great deal of uncertainty and anxiety, which increases every hour the suspension continues. Please reconsider our request to end the moratorium prior to the introduction of program reforms and allow those companies that planned their businesses, menus, summer promotions, etc. around a full complement of staff, by extending the expiry date of LMOs that were approved prior to April 24th by the length of the suspension.

We also appreciate the opportunity to provide further feedback on reforms to the program. Yesterday members of Restaurants Canada's Board of Directors met to discuss our concerns and recommendations in further detail and we ask you to consider the importance of ensuring foreign workers and immigrants, at all skill levels, remain accessible to employers in locations where they have no other option.

We believe that a meeting with Prime Minister Harper is necessary, as soon as possible, to discuss reform objectives that will protect our industry's ability to continue to protect jobs, whether for a year or career, and promote economic growth as the fourth largest private sector job provider in the country.

In our meeting you indicated that you plan to introduce reforms that are: comprehensive; that will create enough tension to ensure that market distortions will not occur and Canadians will not be overlooked for jobs; and, that you want the fixes to be final so you don't have to keep revisiting this issue. We believe that the reforms that are being contemplated are far too extreme and that you will be forced to revisit this issue if you make it so costly that employers of lower skilled/lower wage workers can no longer access it. The result will be that restaurants will be forced to reduce hours of operation, shut down parts of their business, abandon expansion plans, or shutter their restaurants completely due to labour shortages, as was the case in the mid-2000s in Alberta.

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We understand your expectation of higher wages in regions of severe labour shortages but the price/cost mechanisms being contemplated for the reformed program are not realistic given the price sensitivity of consumers of restaurant meals. Wage threshold levels to access the program that are too high will ratchet up wages in all sectors creating a spiral of price and wage inflation but will not solve the problem. Our employees will continue to get poached by sectors with higher margins.

We believe that you can achieve your reform objectives by:

Requiring More Documentation of Job Search: Typically Restaurants Canada would not be making recommendations to increase restaurants' administrative burden. However, we think the most effective way to ensure that Canadians are not overlooked for jobs is to require more vigorous documentation of job search. Employers seeking foreign workers would also be required to provide information on the number of job applications received, the names of applicants, how many applicants were interviewed, plus reasons why applicants were not qualified for job. This could then be matched with information from ESDC's new "Job Match" program. This new measure would be combined with tougher penalties for providing inaccurate information on LMO applications. It would allow for follow-up of anecdotes of job applicants not receiving call backs from employers.

Matching Unemployed Canadians with Available Jobs: It is also necessary to establish linkages between the EI system and the positions identified through the LMO process. To achieve our mutual goal of ensuring the unemployed are matched with available jobs put process in place to verify that those who are on EI are job searching in good faith and not simply applying to fulfill their job search requirements. Once employees accumulate sufficient hours to receive EI benefits, employers are often pressured to indicate on ROEs that employees are being laid off rather than voluntarily resigning. When employers refuse, employees are still able to collect benefits, leaving employers in the lurch.

Requiring Ratio of Foreign Workers to Canadians: A way to create tension in the system without pricing the program out of reach for employers of lower skilled workers would be to implement rules restricting the number of foreign workers that could be hired in relation to Canadian workers. However, ratios must be flexible enough to adjust to circumstances in areas of full employment.

Requiring Orientation/Education of New Foreign Workers to Canada: Some provinces and many employers provide an introductory package of information to TFWs when they arrive in Canada with information about their rights under Canadian law. However, many workers and many Canadians as well, are unaware that foreign workers are entitled to the same protections as Canadian workers under employment standards, WCB, occupational health and safety, EI, etc. Restaurants Canada recommends a standardized mandatory orientation/education program for all foreign workers so that they are aware of their rights in Canada and the process to follow if their rights are abused.

Investigating Complaints and Penalizing Offenders: As Restaurants Canada has recommended consistently, we are fully supportive of penalties for those employers who are not compliant with the requirements of the program. It is unfair to the vast majority of employers who play by the rules to be tarnished by the few who don't.

Providing a Bridge to Permanent Residency for Lower Skilled Foreign Workers: The restaurant industry has been built by immigrants to this country who have risen through the ranks to become owner/operators of multi-million dollar businesses. Our industry provides the first rung on the ladder to economic opportunity and our employees feed every other industry in Canada. With the federal government's focus on highly skilled and highly educated immigrants there are limited opportunities for immigrant entrepreneurs to come to this country to pursue the Canadian dream. Those who come in through the refugee program or family reunification program gravitate to the big cities where we don't have labour shortages and not to communities in northern Alberta and Saskatchewan where they are desperately needed. As a result, under the re-structured program, we recommend that there be a bridge to permanent residency. This could be an additional federal stream through the Expression of Interest program and/or by increasing the allocation of spaces under provincial nominee programs.

Allow an Appropriate Timeframe for Transition to New Rules: There must be an appropriate adjustment period to any new rules of 6 to 12 months. We are extremely concerned about what will happen to the thousands of temporary foreign workers already in Canada. Employers have become attached to these workers and rely on them to staff their operations. Many of these workers have ambitions to stay in Canada but April 1, 2015 looms large as the date many will be expected to go home if there isn't some type of amnesty or other measures put in place.

In conclusion Minister, we appreciate that this is a complex file with implications for Canadian employers, their Canadian employees, their foreign employees and their customers. We wish to continue working with you on practical, workable solutions to ensure that all Canadian employers have access to workers at all skill levels in locations with severe labour shortages so that they can continue to contribute to employment and economic growth in their communities.

Sincerely,



Joyce Reynolds
Executive Vice President, Government Affairs

c.c.: The Hon. Chris Alexander, PC, MP
Minister of Citizenship and Immigration