



CSIC: Protecting Vulnerable Employees Working in Ontario

*A submission to the Ministry of Labour, Office of the
Minister, Ontario*

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Executive Summary

On April 2, 2009, the Honourable Peter Fonseca, Minister of Labour, Ontario, announced that the Ontario Government will introduce legislation to protect vulnerable workers. To this end, the Minister of Labour has engaged in a consultative process with stakeholders to solicit input on provisions that would improve the conditions for temporary foreign workers in the province.

The Canadian Society of Immigration Consultants (CSIC) has been at the forefront of the consumer protection issue to ensure that the fair treatment of foreign nationals is a public policy priority.

CSIC is mandated to protect consumers of immigration consulting services and has taken proactive measures to ensure that members are aware of and comply with provincial employment recruitment legislation. Members who fail to comply with CSIC's Rules of Professional Conduct are subject to disciplinary measures. In one such matter, widely publicized in the *Toronto Star*¹, a number of Korean truck drivers hired an immigration consultant and entered Canada with the promise of employment as temporary foreign workers. The employment did not materialize and the matter went to a hearing whereby the CSIC member was found to have engaged in professional misconduct and breached the Rules of Professional Conduct. By Order of the Discipline Council, the member was fined and was ordered to pay restitution to the truck drivers. Other matters related to temporary foreign workers have been resolved through mediation.

CSIC is mandated to accredit, educate, and discipline its members, but the temporary foreign worker issue goes well beyond the parameters of this mandate. CSIC, therefore, recommends that the Province of Ontario adopt a multi-jurisdictional approach to address the issue of temporary foreign workers in the province and implement the following five major recommendations.

Recommendation 1

Mandatory Foreign Worker Recruitment Licensing

Ontario should include mandatory licensing requirements for anyone seeking to recruit or engage in employment services for temporary foreign workers including live-in care givers. CSIC further recommends that the Government adopts an initiative similar to that of the Manitoba Government and require membership in the Law Society of Upper Canada, a provincial bar, the *Chambre des notaires du Québec* or the Canadian Society of Immigration Consultants as a prerequisite for submitting an application and obtaining a licence and that a list of all licensees be made available to the public.

Recommendation 2

Mandatory Registration for Employers of Foreign Workers

Ontario should adopt a model whereby all employers must register prior to engaging in recruitment efforts and provide information about the company, types of positions, location of employment, information about and names of third parties involved in the recruitment process. Ontario is also encouraged to adopt an employee and employer tracking system for temporary workers in the province.

Recommendation 3

Prohibitions Against Charging a Fee, Directly or Indirectly, to a Worker

Ontario should adopt an employer pay model to better protect temporary foreign workers from economic exploitation.

Recommendation 4

Revenue Neutrality

Ontario should adopt a phased-in model whereby licensing and registration fees are levied to recruiters and employers.

Recommendation 5

Comprehensive Enforcement and Punitive Measures

CSIC recommends the following enforcement measures:

For breaches of the legislation by recruiters, the Government of Ontario should consider:

- Introducing provisions which would allow government agents to conduct investigations and inspect the premises of individuals suspected to be engaging in unlicensed recruiting
- Entering into reciprocal enforcement of extra-jurisdictional orders/agreements with other jurisdictions across the country
- Making it an offence under the *Provincial Offences Act* to engage in employment and recruitment services without a licence. Such an offence would be punishable by one of the of the following:
 - Imposition of a fine on a sliding scale based on the infraction and responsiveness of the offender
 - Suspension or revocation of a licence and restriction on the individual's ability to apply for a subsequent licence for a predetermined period of time.
 - Sentence for egregious conduct by repeat offenders, where deemed appropriate by the Government
- Introducing provisions which would permit its agent to recover any amounts paid by the foreign temporary worker to a recruiter for employment related services

For breaches of the legislation by employers, the Government of Ontario should consider:

- Introducing provisions which allow for mandatory restitution where it is determined that an employer directly or indirectly recovered the costs of hiring the worker from the worker
- Suspending or revoking the registration of any employer who knowingly or unknowingly retains the services of an unlicensed recruiter

- Introducing provisions which require the forfeiture of an irrevocable letter of credit or bond submitted in support of an application for a licence
- Introducing provisions which allow for the recovery of any wages or fees paid by the employee to a recruiter.

Introduction

Who is CSIC?

The Canadian Society of Immigration Consultants (CSIC) pursuant to the *Immigration and Refugee Protection Regulations*ⁱⁱ (the Regulations) is the designated body that regulates more than 1530 Certified Canadian Immigration Consultants who as authorized representatives advise, represent and consult foreign nationals on applications before the Minister of Citizenship and Immigration, for a fee.

CSIC's mandate is to protect consumers of immigration consulting services; consequently, it is responsible for education, accreditation, competency testing and the professional conduct of its members. CSIC also requires its members to carry errors and omissions insurance and to contribute to a fund that compensates consumers for the criminal actions of CSIC members.

History

In a 2001 decision, the *Law Society of British Columbia v. Mangat*,ⁱⁱⁱ the Supreme Court of Canada (the Supreme Court) applied the doctrine of paramountcy to a conflict between federal and provincial legislation and held that the *Immigration Act*^{iv} prevailed over the British Columbia *Legal Professions Act*.^v This Supreme Court decision reinforced the right of foreign nationals to be represented by the counsel of their choice, for a fee, before divisions of the Immigration and Refugee Board.

At the same time, the Supreme Court affirmed the Governor-in-Council's powers to make regulations requiring any person, other than a person who is a member of a bar of any province, to make application and obtain a licence from a prescribed authority before appearing before the Immigration and Refugee Board for a fee.

In 2002, following the Mangat Decision, the Minister of Citizenship and Immigration Canada created an advisory committee tasked with identifying issues and proposing recommendations on how to regulate the industry. The report and the committee's recommendations resulted in the creation of the Canadian Society of Immigration Consultants (CSIC) – an independent regulatory body for immigration consultants who are members and who charge a fee for their services.

In April 2004, the Immigration and Refugee Protection Regulations were amended. Section 13.1 of the Regulations provides:

“...no person who is not an authorized representative may, for a fee, represent, advise or consult with a person who is the subject of a proceeding or application before the Minister, an officer or the Board.”

Section 2 of the Regulations was amended to add a definition of “authorized representative” that included a member in good standing of a bar of a province, the Chambre des notaires du Québec or the Canadian Society of Immigration Consultants.

In a 2008 decision, *The Law Society of Upper Canada v. The Minister of Citizenship and Immigration, the Canadian Society of Immigration Consultants and the Attorney General of Canada*^{vi}, the Federal Court of Appeal affirmed that the Regulations sub-delegated the Governor-in-Council’s legislative power to the Canadian Society of Immigration Consultants for the purpose of regulating the immigration consulting profession. The Federal Court of Appeal held that the advantages of permitting an independent self-regulatory body to draw up the details of the scheme, which can quickly respond to emerging problems, are sufficiently cogent as to lead to the conclusion that IRPA authorized the sub-delegation to CSIC.

The Federal Court of Appeal also affirmed CSIC's role as the "gatekeeper of immigration consultant[s]" and that CSIC’s governance structure satisfies any requirement that CSIC be independent of government and immigration consultants not be subject to improper constraints in their representation of clients imposed by their regulatory body.

Protection of Temporary Foreign Workers

Presently three Canadian Provinces have implemented comprehensive legislative schemes aimed at protecting the rights of temporary foreign workers, including live-in caregivers, using their provincial legislation. Among other provisions, the respective legislations prohibit agents and recruiters from charging workers fees for their services.

British Columbia

In British Columbia, Temporary Foreign Workers are covered under the *Employment Standards Act*^{vii} (the Act) and *Employment Standards Regulation*^{viii} (the Regulation). A foreign worker cannot be required to pay any costs incurred by an employer for the use of an employment agency or employment recruiter.

A Fact sheet^{ix} dated January 2008 and published by the Employment Standards Branch of the Ministry of Labour states that a foreign worker cannot be required to pay for immigration assistance as a condition of being placed in a job; neither can the foreign worker be required to post a bond, pay a deposit or penalty for failure to complete the term of work.

Under section 10(1) of the British Columbia *Employment Standards Act, 1996*^x “a person may not request, charge or receive, directly or indirectly, from a person seeking employment a payment for:

- (a) employing or obtaining employment for the person seeking employment, or
- (b) providing information about employers seeking employees.”

In addition, section 11(1) establishes that “an employment agency must not make a payment, directly or indirectly, to a person for obtaining or assisting in obtaining employment for someone else.”

British Columbia has provided for the licensing of employment agencies under Part 2 of the Regulation. Once licensed, the employment agency must maintain detailed records concerning the employer and each individual directed to the employer, for a period of two years.

Section 15 of the Act establishes provisions for domestic workers including live-in caregivers. Employers are required to provide the Director of Employment Standards Branch with any information required to establish and maintain a register of employees working in private residences. Domestic workers are defined under the Act to include any person who is employed and resides at an employer’s private residence to provide services including childcare and are required to be provided with a contract setting out their conditions of work.

Pursuant to section 4 of the Regulation, the Director of Employment Standards Branch may cancel or suspend an employment agency licence for misrepresentations in the application process and for contraventions of the Act and Regulation including operating an employment agency contrary to the best interests of employers and employment seekers.

Alberta

In Alberta, Part 10 of the *Fair Trading Act*^{xi} (the Act) applies to employment-related businesses. The *Designation of Trades and Businesses Regulation*^{xii} which falls under the *Fair Trading Act*^{xiii}, stipulates that any person who is engaged in the activities of securing persons for employment in Alberta, securing employment for persons within Alberta or evaluating or testing persons for employers who are seeking employees where the individual or the position is in Alberta, is an employment agency for the purposes of the regulation.

The Alberta Government has enacted further regulation of employment and recruitment under the *Employment Agency Business Licensing Regulation*^{xiv}. All employment and recruitment-related agencies are required to be licensed, including those located out-of-province and abroad, if they assist employers to find employees, help employees to find work in Alberta or evaluate or test potential employees for Alberta employers.

Under section 9(1) of the *Employment Agency Business Licensing Regulation*^{xv}, an employment or recruitment agency is prohibited from directly or indirectly demanding or charging a fee, reward or other compensation to a person seeking employment or information about any employer seeking employees. In addition, no fee, reward or other

compensation can be demanded or collected for securing or endeavouring to secure employment for a person, or for providing information to the person about an employer seeking an employee.

Employment and recruitment agencies charge the employer a fee for recruiting the worker or workers. The cost of the service may not be recovered from the employee.

Those employment and recruitment agencies that fail to comply with the Act may be subject to administrative action or prosecution that can result in fines of up to \$100,000, a jail term of two years or both.

Currently, section 4(3) of the *Designation of Trades and Businesses Regulation*^{xvi} provides an exemption for the recruitment of “domestic servants.” This exemption will be repealed to ensure that “domestic servants” receive the same protection offered to other workers. The expected implementation date is September 1, 2009.

Manitoba

In 2009, *The Worker Recruitment and Protection Act*^{xvii} (the Act) came into force and effect in Manitoba to strengthen and expand the protection for foreign workers wanting to live and work in the province.

Under the Act, all persons who engage in foreign worker recruitment and those persons who engage in an employment agency business must be licensed.

Foreign worker recruitment is defined as finding one or more foreign workers for employment in Manitoba and/or finding employment in Manitoba for one or more foreign workers, whether or not a fee is charged. The legislation prohibits an individual who is engaged in foreign worker recruitment from directly or indirectly charging or collecting a fee from a foreign worker for finding or attempting to find employment for him or her.

In accordance with the Act, employers must bear the cost of the recruitment, not the employees. Employers are required to register with the Employment Standards Branch, Business Registration Unit prior to engaging in any recruitment efforts. They are required to provide information about their company, the types of positions they are recruiting, and information about any third parties involved in the recruitment process. Any third party used to recruit must be licensed as a foreign worker recruiter by the Employment Standards Branch.

To become licensed to engage in foreign recruitment, under the *Worker Recruitment and Protection Act Regulation*^{xviii} (the Regulation), an individual must satisfy the Director that he or she is a member in good standing of the Law Society of Manitoba, a provincial bar, the Chambre des notaires du Québec or the Canadian Society of Immigration Consultants.

The names of all individuals and businesses holding a licence are posted on the Employment Standards website.

The offence of recruiting without a licence is subject to fines from \$25,000 to \$50,000. If a licensed recruiter is found to have been involved in the charging of a fee to a foreign worker, the recruiter will be ordered to repay the fees, will have his or her licence revoked and will be fined. If an employer is involved, the employer will be ordered to repay the fees and the recruitment registration will be cancelled.

Ontario

Under current employment related legislative framework in Ontario, temporary foreign workers and live-in caregivers recruited pursuant to a Federal Program are afforded the same general protections afforded to all Ontarians. However, their unique immigration status makes them more vulnerable to exploitation by unscrupulous recruiters.

Many foreign temporary workers are unaware of their legislated rights. Many are forced to work in less than ideal situations. The existing legislative framework places the onus of recognizing and reporting violations on the individuals impacted by the conduct of unscrupulous recruiters and employers.

Through the introduction of the proposed amendments to the *Employment Standards Act*, and with the changes already in force with regards to domestic workers and live-in caregivers, the Government of Ontario is utilizing a more proactive approach to preventing the exploitation of temporary foreign workers. However, the Government can go even further.

CSIC recommends that the Government of Ontario enhance its current efforts through the introduction of a separate and specific piece of legislation aimed at regulating those who recruit and employ temporary foreign workers and live-in caregivers. Doing so would bring the efforts of the Government of Ontario in line with those of the other provinces discussed above.

This approach will:

- Create a proactive and minimalist solution to growing and pressing problem.
- Given the restrictions imposed by *IRPA*^{xix}, on who can act on behalf of immigrants on matters before the Minister; namely, authorized representatives, crafting separate legislation will make the regulatory framework more streamlined and easily discernable. Those individuals captured by the legislation will not need to sift through complex legislative provisions, much of which has nothing to do with them.
- Separate and specific legislation would improve the ability of the Government's enforcement agents to investigate complaints and impose the appropriate penalty.
- Separate and specific legislation with separate penalties could resolve the concerns of some other stakeholders such as those agencies who staff home care needs in Ontario etc.

- Separate and specific legislation will enable the Government's multijurisdictional stakeholder partners such as the LSUC and CSIC to provide value-added oversight of the conduct of individuals offering services to temporary foreign workers.

Recommendations

It is CSIC's recommendation that the Province of Ontario adopt a multi-jurisdictional approach to address the issue of temporary foreign workers in the province. Specifically, CSIC recommends that the Province of Ontario implement a legislative scheme which would introduce separate and specific legislation comprised of:

1. Mandatory Foreign Worker Recruitment Licensing
2. Mandatory Registration for Employers of Foreign Workers
3. Prohibitions Against Charging a Fee, Directly or Indirectly, to a Worker
4. Revenue Neutrality
5. Comprehensive Enforcement and Punitive Measures

Multi-jurisdictional Approach

The solution to the abuses faced by temporary foreign workers requires a multi-jurisdictional approach. Immigration is a federal matter while employment-related activities including worker protection fall within provincial jurisdiction. An international element also exists wherein foreign workers are often recruited by off-shore agents who are acting outside of federal and provincial boundaries. Limitations exist for both levels of Government in the management of these rogue agents. Therefore the issue of overlapping jurisdictions requires a cooperative and coordinated approach to ensure continuity and to prevent gaps in the protection of foreign workers. Overseas and out-of-province recruiters will have to be authorized representatives thereby reducing the number of rogue agents and by providing an added layer of protection for the vulnerable temporary workers.

The restriction of licensing to authorized representatives and the requirement for employer registration will allow the Province to effectively manage those who can legally engage in recruitment and employment-related activities in other provinces and abroad.

In order to secure employment in Ontario, the prospective employee must satisfy federal requirements under the various temporary foreign worker programs administered by Citizenship and Immigration Canada (CIC) and obtain a positive Labour Market Opinion from Human Resource and Skills Development Canada (HRSDC). The temporary worker is required to obtain a work permit pursuant to federal legislation prior to entering Canada. The federal work permit is an application before the Minister and is therefore within the scope of practice of authorized representatives under section 13.1 of the *Immigration and Refugee Protection Regulations*^{xx}. As set out under the Regulations no person other than an authorized representative may advise, consult or represent an applicant for a fee with a person who is the subject of a proceeding or application before the Minister, an officer or the Board.

Once in Ontario, the employee is protected by the provincial employment and worker protection legislation.

The Governments of British Columbia, Alberta and Manitoba entered into negotiations with the federal Government to develop Letters of Understanding (LOU) to strengthen the protections for temporary foreign workers including safer working conditions and fulfillment of employment contract terms.

Manitoba is working with the Federal Government to establish a protocol to deny the employer the ability to bring in a foreign worker from outside the country if the employer fails to register with or is denied registration by the Business Registration Unit. A Canada-Manitoba Working Group has been established to coordinate policies, service delivery and information sharing related to the recruitment, retention and well-being of foreign workers.

The Government of Manitoba has also signed a Memorandum of Understanding with the Government of the Philippines to streamline the process to better connect Filipino applicants with potential employers in Manitoba.

Recommendation 1

Mandatory Foreign Worker Recruitment Licensing

CSIC recommends that the Government of Ontario include mandatory licensing requirements for anyone seeking to recruit or engage in employment services for temporary foreign workers including live-in caregivers. CSIC further recommends that the Government adopt an initiative to require membership as a lawyer or student at law in the Law Society of Upper Canada, or a provincial or territorial bar, or the *Chambre des notaires du Québec* or the Canadian Society of Immigration Consultants as a prerequisite for submitting an application and obtaining a licence and that a list of all licensees be made available to the public.

Advantages of Mandatory Recruiter Licensing

Temporary Foreign Workers are often recruited from abroad by offshore recruiters/agents who operate with impunity and exploit the economic vulnerability of those seeking a better life in Ontario. To ameliorate this problem, British Columbia, Alberta and Manitoba require the licensing of employment agencies and recruiters. British Columbia, Alberta and Manitoba have defined the term agency as applying to any and all persons engaged in employment and recruitment activities. In addition, Alberta requires all persons to be licensed, including those out-of-province and abroad, who engage in employment and recruitment activities in relation to the respective provinces. Manitoba has added a further requirement that only authorized representatives may be licensed as recruiters.

In order to more vigorously enforce reputable employment and recruitment practices, the Government of Manitoba requires each applicant to register all associated employment

and recruitment agencies and companies along with the names of all third party agents. A list of all licensees is available to the public and is posted on the Employment Standards website.

Manitoba has gone a step further and has restricted the eligibility for applying for a licence to recruit temporary foreign worker or live-in care givers to those individuals who are members of the Law Society of Manitoba, a provincial law society, Chambre des notaires du Québec or the Canadian Society of Immigration Consultants. The intent is to provide an added level of regulated accountability that supports the multi-jurisdictional approach to the issue and inhibits the activities of offshore ghost agents preying upon the vulnerable.

Recommendation 2

Mandatory Registration for Employers of Foreign Workers

It is CSIC's recommendation that Ontario adopt a model whereby all employers must register prior to engaging in the recruitment of foreign workers and provide information about the company, types of positions, location of employment, information about and names of third parties involved in the recruitment process. Ontario is also encouraged to adopt an employee and employer tracking system for temporary workers in the province.

Advantages of Mandatory Employer Registration

As a further safeguard for the temporary workers, the Province of Manitoba requires all employers to register prior to engaging in any recruitment efforts and to provide information about their company and the types of positions they are recruiting. They are also required to provide information about any third parties involved in the recruitment process. The Business Registration Unit can then verify that the recruiter is licensed. With early employer registration, the Province is assured that the employer has a good history of compliance with labour legislation and is working with a licensed recruiter.

In British Columbia, all licensed employment and recruitment agencies are required to maintain records of each employer and each individual they have directed to the employer. In addition, the Employment Standards Branch maintains a registry of all employees working in private residences.

The tracking of employers and employees will allow the Province of Ontario to monitor and control the supply of jobs in the market place. This will facilitate provincial oversight over foreign worker conditions within the province and assist in identifying settlement patterns for other programs. Knowing where the workers are located will enable the Province to better inspect and investigate the work environments of temporary foreign workers leading to improved retention rates of temporary workers who may remain as permanent residents. Consequently, the quality and quantity of workers is ensured.

Recommendation 3

Prohibitions Against Charging a Fee, Directly or Indirectly, to a Worker

It is CSIC's recommendation that the Government of Ontario adopt an employer pay model to better protect temporary foreign workers from economic exploitation.

Advantages of the Employer Pay Model

An absolute prohibition should exist against charging fees to temporary foreign workers. Employers should not be entitled to recover recruitment costs from the worker in order to acquire employment. This prohibition should also apply to fees for all employment-related work. An employer should bear the cost of the recruitment and associated employment costs.

Too many incidents have been reported to CSIC where unscrupulous foreign worker recruiters have charged the employees excessive amounts for recruitment and employment services. For the purposes of this paper, a few examples will be used to exhibit the ways in which the current system permits exploitation of temporary workers. In some examples, temporary foreign workers have arrived in Canada to find that the position promised no longer exists. Other workers were provided with employment, however, the terms of the agreement were altered to reflect lower wages and additional unrelated job functions. Still other workers were required to pay exorbitant fees to both employer and recruiter, as well as pay for expenses such as "anti-terrorism certificates" and "United Nations travel documents".

In other examples, recruiters have entered into financial arrangements with the employer to deduct and remit a percentage of the temporary foreign worker's pay to the recruiter for the duration of the worker's contract as compensation for services rendered over and above other fees paid by the worker. This amounts to a form of indentured servitude where the worker is forced to comply with the terms of the contract in order to pay off the recruitment debt.

Unilateral changes to the terms or conditions of employment should be prohibited. However, a process should be developed in consultation with Human Resources and Skills Development Canada.

The legislative schemes adopted by British Columbia, Alberta and Manitoba require the employer to be responsible for all costs associated with the recruitment and employment of temporary foreign workers and strictly prohibit the charging of a fee or any manner of compensation to the person seeking employment or information about employers.

Recommendation 4 Revenue Neutrality

It is CSIC's recommendation that the Government of Ontario adopt a phased-in model whereby licensing and registration fees are levied to recruiters and employers.

Value –added benefit of Revenue Neutrality

A revenue neutral approach can be managed through a comprehensive fee structure. The costs associated with the adoption and implementation of the licensing and registration program may be recouped through fees levied for employer registration and through recruitment licensing fees.

A phased in approach over a specific period will assist in maintaining control over implementation costs. The restriction of recruiter licensing to members of the Law Society of Upper Canada, a provincial bar, Chambre des notaires du Québec and the Canadian Society of Immigration Consultants will be of assistance in monitoring compliance activities.

Recommendation 5 Comprehensive Enforcement and Punitive Measures

CSIC recommends the following enforcement measures:

For breaches of the legislation by recruiters, the Government of Ontario should consider:

- Introducing provisions which would allow Government agents to conduct investigations and inspect the premises of individuals suspected to be engaging in unlicensed recruiting
- Entering into reciprocal enforcement of extra-jurisdictional order agreements with other jurisdictions across the country
- Making it an offence under the *Provincial Offences Act*^{xvi} to engage in unlicensed practice. Such an offence would be punishable by one of the following:
 - Imposition of a fine on a sliding scale based on the infraction and responsiveness of the offender
 - Suspension or revocation of a licence and restriction on the individual's ability to apply for a subsequent licence for a predetermined period of time.
 - Sentence for egregious conduct by repeat offenders, where deemed appropriate by the Government
- Introducing provisions which would permit its agent to recover any amounts paid by the foreign temporary worker to a recruiter for employment related services

For breaches of the legislation by employers, the Government of Ontario should consider:

- Introducing provisions which allow for mandatory restitution where it is determined that an employer directly or indirectly recovered the costs of hiring the worker from the worker

- Suspending or revoking the registration of any employer who knowingly or unknowingly retains the services of an unlicensed recruiter
- Introducing provisions which require the forfeiture of any letter of credit or bond submitted in support of an application for a licence
- Introducing provisions which allow for the recovery of any wages or fees paid by the employee to a recruiter.

Conclusion

The future employment demands of the province are a pressing issue as baby boomers retire. Now is the time to take action to regulate the market and plan for the not too distant employment needs of Ontario.

Results of the 2006 census conducted by Statistics Canada^{xxii}, and projections based on data trends, indicate that seniors could outnumber children aged 14 and under within the next 10 years.

The working-age population (15-64 years) is becoming increasingly older. The fastest growing age group between 2001 and 2006 consisted of individuals aged 55-64 who are nearing retirement. This rate of growth is more than five times the national average of 5.4%. The growth of the elderly population has been modest up to now, but will start to accelerate in 2011 when the first baby-boomers turn 65. As the Baby Boomer cohort remains the largest group in the population, their arrival to retirement age will have major implications for the work force during the coming decades.

These rapid changes in the working-age population present many challenges to Ontario employers who will have to adjust to the high rate of employee turnover. Knowledge transfer, employee retention, the health of older workers and continuous training for employees will be key labour force issues in the near future. The worker recruitment industry will continue to grow to meet the high demand; therefore, safeguards are required.

The introduction of legislation regulating the worker recruitment industry now will allow for a period of transition before the Baby Boomer generation begins to retire in 2011. Currently being in the midst of a recession will allow for a staged implementation of the legislation and enable a smooth transition for the recruitment industry.

In the Province of Ontario, co-operation at all levels of Government, including Federal Ministries such as Citizenship and Immigration Canada (CIC), Human Resources and Skills Development Canada (HRSDC) and the Canada Border Services Agency (CBSA) will be vitally important to reaching the goal of regulating the recruitment industry and ensuring that workers are protected.

ⁱ Keung, Nicholas, "Immigration Consultant Guilty of Misconduct" *The Toronto Star* (March 20, 2008).

ⁱⁱ *Immigration and Refugee Protection Regulations*, S.O.R./2002-227.

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- ⁱⁱⁱ *Law Society of British Columbia v. Mangat*, 2001 SCC 67, [2001] 3 S.C.R. 113, [2001] S.C.J. No. 66.
- ^{iv} *Immigration Act*, R.S.C. 1985, c. 1-2.
- ^v *Legal Profession Act*, S.B.C. 1998, c. 9.
- ^{vi} *Law Society of Upper Canada v. Canada (Citizenship and Immigration)*, 2008 FCA 243.
- ^{vii} *Employment Standards Act*, R.S.B.C. 1996, c. 113.
- ^{viii} *Employment Standards Regulation*, B.C. Reg. 396/95.
- ^{ix} British Columbia Employment Standards Branch Fact Sheet, *Employment Standards for Foreign Workers*, January 2008.
<http://www.labour.gov.bc.ca/esb/facshts/pdfs/foreign-workers.pdf>
- ^x *Employment Standards Act*, R.S.B.C. 1996, c. 113.
- ^{xi} *Fair Trading Act*, R.S.A. 2000, c. F-2.
- ^{xii} *Designation of Trade and Businesses Regulation*, Alta. Reg. 178/1999.
- ^{xiii} *Fair Trading Act*, R.S.A. 2000, c. F-2.
- ^{xiv} *Employment Agency Business Licensing Regulation*, Alta. Reg. 189/1999.
- ^{xv} *Ibid.*
- ^{xvi} *Designation of Trade and Businesses Regulation*, Alta. Reg. 178/1999.
- ^{xvii} *Worker Recruitment and Protection Act*, C.C.S.M. c. W197.
- ^{xviii} *Worker Recruitment and Protection Regulation*, Man. Reg. 21/2009.
- ^{xix} *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.
- ^{xx} *Immigration and Refugee Protection Regulations*, S.O.R./2002-227.
- ^{xxi} *Provincial Offences Act*, R.S.O. 1990, c. P.33.
- ^{xxii} Statistics Canada. 2009. *2006 Census: Portrait of the Canadian Population in 2006, by Age and Sex: Findings*. Statistics Canada Catalogue no. 97-551-XWE2006001. Ottawa.
<http://www12.statcan.ca/census-recensement/2006/as-sa/97-551/pdf/97-551-XIE2006001.pdf> (PDF Version, 657 kb)