



The Honourable Sean Fraser
Minister of Immigration, Refugees, and Citizenship
Minister@cic.gc.ca

May 26, 2023

Re: The Issue of Misinterpretation of the *Immigration and Refugee Protection Act* (SC 2001, c 27) and the *Immigration and Refugee Protection Regulations* (SOR/2002-227) by the Philippine Consulate General in Canada

Dear Minister Fraser,

On behalf of The Canadian Association of Professional Immigration Consultants (CAPIC), we would like to bring a serious issue to your attention with a request to seek remedies for it. The Philippine Consulate General in Canada (the Philippine Consulate) seems to have misinterpreted the *Immigration and Refugee Protection Act* (SC 2001, c 27) and the *Immigration and Refugee Protection Regulations* (SOR//2002-27) (IRPR) in their [Guidance on the Verification of Employment Documents](#) (the Guidance) issued in March 2023. The Guidance categorizes work permit and temporary resident visa (TRV) immigration service fees as part of employment recruitment and prohibits such fees to be charged to Filipino workers. Based on such misinterpretation, the Philippine Consulate requires immigration consultants (RCICs) and Canadian employers to sign an affidavit when representing and hiring Filipino workers, respectively.

Subparagraphs 209.2(1)(a)(ix) and 209.3(1)(a)(xv) of IRPR do stipulate that Canadian employers must bear the employer compliance fee, the labour market impact assessment fee, and the foreign worker recruitment fees. However, temporary residency processing fees and immigration service fees do not fall under the jurisdiction of these two subparagraphs. Subparagraphs 209.2(1)(a)(x) and 209.3(1)(a)(xvi) of IRPR stipulate that the temporary residency processing fees can be borne by foreign workers, which include the TRV fee of \$100, temporary resident permit

fee of \$200, and work permit fee of \$155 prescribed in subsections 296(1), 298(1), and 299(1) of IRPR respectively. Subsection 91(2) of the *Immigration and Refugee Protection Act* (SC 2001, c 27) (IRPA) authorizes authorized representatives to charge for their immigration advice and services. No provisions in either IRPA or IRPR category state such professional service fees as part of the recruitment scheme. Nor does the existence of any provision in IRPA or IRPR require authorized representatives to put such service fees to employers of their clients when representing the clients to apply for a TRV, TRP, or a work permit.

The Guidance, as provided by the Philippine Consulate overreaches its jurisdiction on Canadian soil. The Guidance has no authority within Canada, nor should it supersede applicable Canadian statutes and regulations. The signing of affidavit requirement infringes the legitimate rights of RCICs. RCICs have the right under Canadian law to charge fair and reasonable fees to those who hire their services for both permanent and temporary residence matters, including services for work permits and temporary resident visas. Further, the affidavit compels RCICs to monitor working conditions and undertake any or all acts that may be necessary for the safety and well-being of the Filipino worker and a myriad of other conditions. Though CAPIC agrees that workers must be treated fairly and be informed of their rights, such imposed obligations go beyond RCICs' capacity. Needless to say, that no Canadian employer would allow such a third party RCIC to oversee these types of issues in their workplace.

Canada has robust labour and safety standards, both at the federal and provincial levels, including strong education on workers' rights. Canadian employers must ensure they meet their obligations. RCICs must provide competent and ethical service; they are, however, allowed under the law to be paid for that service. We respectfully request that



your office and other departments within the Canadian Government take appropriate action in the noted overreach and the subsequent impact on Canadian businesses, citizens, and permanent residents of Canada.

Yours Truly,

Dory Jade, C. Dir.
Chief Executive Officer
CAPIC-ACCPI

Enclosure 2

c The Honourable Mélanie Joly, MP, Minister of Foreign Affairs
The Honourable Marco E. L. Mendicino, the Minister of Public Safety

9. Direct-hire processing of contracts, on the other hand, is merely an exemption to the rule. It is not a matter of right. It may be allowed subject to certain criteria or conditions. The Migrant Workers Office (MWO) may or may not recommend direct hiring, which authority however rests solely with the Secretary (Minister) of the Department of Migrant Workers. Such being the case, direct hiring may be recommended or allowed on a one-time/one transaction basis only for company/business employers in Canada who are hiring up to a maximum of 5 workers (in lieu of the current practice of allowing piecemeal and cumulative processing of up to 5 workers). An employer who had previously availed of the direct-hire exemption will no longer be allowed to directly hire and is kindly advised to tie-up with, and process their contracts through a duly licensed Philippine recruitment agency of their choice;

10. Filipino workers being employed on direct-hire must be for jobs belonging to TEERs 1, 2 & 3 only, of the updated National Occupation Classific

The Labor Attaché
Migrant Workers Office (MWO)
Labor Section
Philippine Consulate General
Suite 601, 999 Canada Place
Vancouver, BC V6C 3E1



Philippine Consulate General
Vancouver, Canada

Philippine Consulate General
999 Canada Place, Suite 660
Vancouver, BC V6C 3E1

P: 604-685-1619
F: 604-685-9945
E: vancouverpcg@telus.net

9 AM - 5 PM (Monday to Friday
except on Philippine and
Canadian holidays)

AFFIDAVIT OF UNDERTAKING

(Employer and Canada Recruitment Agency/Immigration Consultant)

I, (name of owner), owner/president (name of company)
with address at (address), under oath, hereby undertake to
assume responsibility to:

1. Monitor the working conditions of the Filipino worker (name of Filipino worker), and report to the Philippine Consulate/Migrant Workers Office for any possible concerns;
2. Ensure that said worker had not been charged and made to pay by me or my designated Immigration consultant in Canada (name of Immigration consultant/lawyer) for any fees or expenses in relation to his/her recruitment including the costs for the application for Labor Market Impact Assessment (LMIA) work permit, visa fee, deployment and processing fees, other related costs in connection with his/her hiring and/or to secure employment in Canada;
3. Refund the fees, if any, paid by said Filipino worker to me or to my designated Immigration consultant in Canada in violation of the law in Canada and the Philippines prohibiting the charging of recruitment fees and related services against foreign worker;
4. Shoulder the cost of air fare from the country of origin of the foreign worker to workplace in Canada except those considered as high wage worker or employee;
5. Allow the newly-arrived Filipino worker to report to the Philippine Consulate’s Migrant Workers Office (MWO) for post-arrival orientation;
6. Undertake any or all acts that may be necessary and required for the safety and well-being of the Filipino worker.

This Affidavit of Undertaking is being executed in compliance with the above requirements.

IN WITNESS WHEREOF, I have set my hands this ___ day of _____ 2023 at _____.

Signature over printed name of Employer

Email:
Mobile:

Signature over printed name of
Immigration Consultant

Email:
Mobile:

AFFIRMED BEFORE ME,)

In the city of _____,)

In the Province of _____,)

On _____ 2023)

A Commissioner for taking Affidavits)

In the Province of _____)