

FREQUENTLY ASKED QUESTIONS: Changes to the TFW Program Regarding COVID-19

Note: This document is intended to complement existing guidance to employers (published March 27, 2020), as well as information for travellers to Canada on the following website: www.canada.ca/coronavirus. This document will be updated as required.

1. Are any temporary foreign workers exempt from the Chief Public Health Officer (CPHO) of Canada's mandatory self-isolation requirements for all travellers coming into Canada?

- Pursuant to the Emergency Order PC number 2020-0175 made under section 58 of the *Quarantine Act*, most temporary foreign workers must self-isolate for 14 days upon arrival.
- There are, however, exemptions from the self-isolation requirements for some groups, provided they have no COVID-19 symptoms. These include people who are deemed by the CPHO of Canada to provide an essential service because they:
 - are making necessary medical deliveries of cells, blood and blood products, tissues, organs, or other similar lifesaving human body parts, as required for patient care;
 - work in the trade and transportation sector who are important for the movement of goods and people, including truck drivers, crew on any plane, train or marine vessel, and that cross the border while performing their duties, or for the purpose of performing their duties;
 - cross the border regularly to go to work, including in the healthcare sector or critical infrastructure workers for the purpose of performing their duties; or
 - have to cross the border to provide or receive essential services, including emergency responders and personnel providing essential services to Canadians related to the COVID-19 outbreak.

2. What about other designations on essential services by provinces and Public Safety Canada?

- Public Safety Canada has developed a set a [functions deemed essential](#) in the context of the COVID-19 pandemic to help provinces/territories, Indigenous communities, and municipalities protect their communities while maintaining the reliable operation of critical infrastructure services and functions to ensure the health, safety, and economic well-being of the population.

- In addition, many provinces/territories have communicated essential services within their jurisdictions.
- **These determinations do not constitute exemptions from the requirement to self-isolate.**

3. Are temporary foreign workers required to self-isolate immediately upon landing in Canada, or are they permitted to travel to their final destination in Canada before self-isolating?

- Like all travellers, workers will be screened prior to boarding an international flight to Canada. Workers who present with COVID-19 symptoms will not be allowed to travel.
- Upon arrival in Canada, temporary foreign workers will be screened for COVID-19 symptoms. If they are deemed to be asymptomatic (no symptoms), and meet entry requirements, they will be permitted to travel onwards, including via a connecting flight, to their housing where they must self-isolate for 14 days.
- If they have symptoms upon arrival, depending on the severity of their condition, they may be placed in quarantine at the point of entry or be sent to the hospital. Once they have recovered, their admissibility to Canada will be assessed and, if applicable, they may be permitted to travel onwards to their final destination.

4. What are a temporary foreign worker's responsibilities upon arrival in Canada, both during the period of self-isolation and afterwards?

- Temporary foreign workers are responsible for following all public health measures issued by government authorities within Canada. The latest information, including contact information for local health authorities, is available at www.canada.ca/coronavirus.
- If a worker develops symptoms such as cough, fever, or difficulty breathing at anytime, or believes they were exposed to someone who was sick with COVID-19, they must notify key people. This includes airline staff and border agents if travelling, and their employer, their roommates and public health authorities if at their place of residence or workplace. The worker could face penalties for not reporting this information.
- During the self-isolation period, workers must follow the guidelines issued by the Government of Canada (www.canada.ca/coronavirus) and their province or territory of residence. This includes remaining in their place of residence and keeping a minimum of two metres away from other people.

5. What are the penalties to workers for not respecting the self-isolation requirements?

- With the exception of those deemed exempt by the CPHO of Canada (see Q1) temporary foreign workers entering Canada are subject to the requirements of the Emergency Order 2020-0175 made under section 58 of the *Quarantine Act*, which includes mandatory self-isolation. Penalties of up to \$750,000 can be levied against a temporary foreign worker who violates this Order.
- Further, a person who causes a risk of imminent death or serious bodily harm to another person while wilfully or recklessly contravening the *Quarantine Act* or associated regulations could be liable for a fine of up to \$1,000,000 or to imprisonment of up to three years, or to both.
- The requirements of the order, which includes mandatory self-isolation in most cases, have been shared with workers including via email to work permit holders, are communicated upon entry into Canada, and are available online at www.canada.ca/coronavirus. In addition, the federal government is working with provinces and territories to enforce these obligations, applying a risk-based, measured approach to non-compliance.

6. Are temporary foreign workers allowed to work while in self-isolation?

- No. The employer cannot authorize the worker to work during the self-isolation period, even if requested by the worker, with the exception of those deemed as providing an essential service by the Chief Public Health Officer of Canada (see Q1). In addition, the employer cannot ask the worker to perform other duties during that period, such as building repairs or administrative tasks.

7. How much does an employer have to pay their temporary foreign worker during the initial self-isolation period?

- Employers are responsible for paying their temporary foreign workers for a minimum 30 hours per week during self-isolation, and at the rate of pay specified on the Labour Market Impact Assessment. This is consistent with the TFW Program's genuineness policy, which indicates that reasonable employment needs are a full time workload (i.e., a minimum of 30 hours per week).
- The employer can withhold standard contract deductions (e.g. Employment Insurance, housing, transportation, etc.) as per applicable Program stream requirements. The employer is not allowed to deduct any additional amounts due to the self-isolation period.
- To clarify previous guidance (dated March 27, 2020): **This requirement will also apply to workers in the Seasonal Agricultural Worker Program (SAWP)**

and the 14-day period of paid self-isolation will be in addition to the minimum 240 hours of pay as specified in the SAWP contract.

8. What are the employer's responsibilities with respect to isolation if a worker develops symptoms of COVID-19 after the self-isolation period?

- If a worker becomes symptomatic at any time, including after the self-isolation period, the employer must immediately arrange for the worker to be fully isolated from others, and contact local public health officials. Where applicable, employers should also contact the appropriate consular officials.
- The employer (and worker) must then follow the advice/direction of the local public health authority, and facilitate the continued isolation of the worker for either a minimum of 14 days since the first onset of symptoms, or until the public health authority deems necessary.

9. What are you doing to enforce employer compliance with health and safety requirements? What are the penalties for employer non-compliance?

- Employers have an important role to play in helping to prevent the introduction and spread of COVID-19. Importantly, employers must not prevent or inhibit workers from meeting their obligations under *the Quarantine Act* in any way.
- The Government has communicated requirements for employers in various ways:
 - A guidance document (dated March 27), shared with all current employers of the TFW Program, as well as stakeholders, provinces/territories, and partner countries;
 - Ongoing engagement with stakeholders and partners to respond to questions and identify and address outstanding concerns; and
 - A letter to employers from the Minister of Health and the Minister of Employment, Workforce Development and Disability Inclusion, underscoring expectations for employers and the importance of the public health requirements.
- Options for penalties for employers of temporary foreign workers under other regulatory regimes, such as the *Immigration and Refugee Protection Regulations* are under assessment.

10. What mechanisms will there be for reporting instances of non-compliance to government authorities?

- Individuals who observe suspected violations of the *Quarantine Act* on the part of anyone, including a self-isolating worker, are asked to notify local law enforcement.
- Individuals who observe a suspected contravention of the expectations of employers are asked to report through ESDC's [Online Fraud Reporting tool](#) – a secure online process for submitting information that will be reviewed by program officers, and who will take action as appropriate. Alternatively, individuals can call the toll-free Service Canada Confidential Tips Line at 1-866-602-9448. These tools can also be used to report other incidents of non-compliance with program rules and requirements.

11. For employers who are already required to provide housing to workers, do the housing requirements on social distancing (e.g. two metres apart) apply only during the self-isolation period, or for the worker's entire period of employment?

- The requirement is for employer to provide housing which ensures that workers remain two metres apart applies during the mandatory self-isolation period.
- It is recommended that workers continue to practice social distancing and good hygiene habits beyond the two-week period, in an effort to reduce the spread of COVID-19. Employer-provided housing that enables this would support public health objectives.

12. Will workers receive health care coverage while they are in Canada, including for COVID-19 related issues?

- Temporary foreign workers should receive coverage equivalent to other residents of Canada. For workers in the low-wage and primary agriculture streams, including the Seasonal Agricultural Worker Program, if provincial/territorial health care is not provided from the first day the worker arrives in Canada, equivalent private health insurance must be provided by the employer until the worker becomes eligible for the provincial/territorial plan.
- In the current context, some private insurers may no longer cover COVID-19 related issues. Some provinces are waiving typical waiting periods for provincial coverage. We are continuing to assess the situation and will work with provinces and other partners to address gaps. In the meantime, existing employer obligations still apply.

13. What happens if a worker becomes sick with COVID-19?

- If a worker becomes symptomatic at any time, the employer must immediately arrange for the worker to be fully isolated from others, and contact local public health officials. If this takes place during the initial self-isolation period, the worker will be paid (see Q7).
- If the worker becomes ill after the initial self-isolation period, they may be entitled to either paid or unpaid sick leave, depending on their employment contract and the relevant federal, provincial or territorial employment standards. This could include new provisions in several jurisdictions for job-protected leave because of the COVID-19 pandemic.
- A worker may also be eligible for Employment Insurance (EI) or the Canada Emergency Response Benefit (CERB). In both cases, temporary foreign workers are subject to the same eligibility criteria as Canadians and permanent residents:
 - EI sickness benefits are available to people who are unable to work due to illness, injury or quarantine, but who would be available to work if it were not for their medical condition. There are eligibility criteria, such as minimum insurable hours. More details can be found here:
<https://www.canada.ca/en/services/benefits/ei/ei-sickness.html>.
 - The recently announced CERB will provide temporary income support to workers who are without employment or self-employment income due to COVID-19. This includes workers who have temporarily stopped working, lost their job, are sick or in quarantine, or need to care for a child or a family member. More details can be found here:
<https://www.canada.ca/en/services/benefits/ei/cerb-application.html>.