

Licensing Deadline For Ontario Recruiters And Temporary Help Agencies Draws Near—and Here Are The Updates



Beginning July 1, 2024, nearly all recruiters and temporary help agencies (THAs) working with businesses or candidates in Ontario will be required to have a licence. All applications must be submitted to the Director of Employment Standards (“Director”) by June 30, 2024, to continue operating.

Quick Hits

- Beginning July 1, 2024, nearly all recruiters and temporary help agencies working with businesses or candidates in Ontario will be required to have a licence, even if the recruiters and temporary help agencies are not located in Ontario.
- THAs and recruiters that apply by June 30, 2024, may continue operating past the July 1, 2024, licence deadline.
- Licences are good for one year after their issuance date.
- Businesses working with recruiters and temporary help agencies also have obligations under this program.
- Changes have been made to aspects of this licence program since it was first introduced.

Other businesses in Ontario that work with recruiters and THAs or have candidates or temporary workers in Ontario also have responsibilities under this program.

The following provides a refresher on our [previous article](#) on this subject and an update on some changes to the program.

Definitions

Under Ontario's [Employment Standards Amendment Act \(Temporary Help Agencies\), 2009](#), a **temporary help agency** is "an employer that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer."

[Ontario Regulation 99/23](#) defines a **recruiter** as "[a]ny person [which includes a corporation, partnership and individual/sole proprietorship] who, for a fee, finds, or attempts to find, employment in Ontario for prospective employees" or "[a]ny person who, for a fee, finds, or attempts to find, employees for prospective employers in Ontario." Exceptions to the definition of "recruiter" include certain educational institutions, trade unions, and registered charities. Individual employees who carry out recruitment tasks as part of their job duties for their employer are also not included in the definition of "recruiter", and thus do not need a licence.

THAs and recruiters that are not located in Ontario also must have a licence.

Quick Refresher on Applying for a Licence

To apply for a licence, recruiters and THAs must:

- complete an application form (which can be done on the Ontario government's [website](#));
- pay an application fee of \$750 CAD; and
- if applicable, provide a form of security via a letter

of credit or a surety bond.

THAs and recruiters that have submitted an application by June 30, 2024, may continue operating past the July 1, 2024, licence deadline.

Licensing Terms and Renewals

Licences are good for one year after their date of issuance.

To renew a licence, an entity must complete an application and pay another application fee, and top up the security as needed.

See our [previous article](#) on the recruiter and THA licence for more details about the application process and licence generally, including reasons why a licence may be denied, recordkeeping requirements, and penalties for noncompliance.

Doing Business in Ontario or Hiring in Ontario

Businesses operating in Ontario (or those hiring candidates or temporary workers in Ontario) are responsible for ensuring that the recruiters and THAs they retain are compliant with the licensing requirements. Businesses can now see the status of a recruiter or THA on the [government's licensing portal](#). (Note that agencies and recruiters may continue operating after July 1, 2024, without having a licence, as long as an application was submitted by the deadline.)

What's New? Changes to the Form of Security Requirements

Initially, the government required all businesses applying for a licence to provide a security in the form of a \$25,000 CAD irrevocable **letter of credit**. That requirement has since changed.

Now, certain recruiters are exempt, while those required to

provide a security can do so with a **surety bond**.

Security-Exempt Recruiters

Recruiters that do not need to provide a security as a part of their application are those that:

- will not act as a recruiter for foreign nationals during the term of the licence, or
- will act as a recruiter for foreign nationals during the term of the licence but only in respect of positions with wages at or above the median hourly wage.

The government defines “foreign national” as an individual who is not a Canadian citizen or a permanent resident, and “median hourly wage” as published on the [Government of Canada website](#) at the time of the application (the median hourly wage as of April 2, 2024, is \$28.39 per hour in Ontario).

As a result of this change, recruiters will also need to disclose on their application whether they will act as a recruiter for foreign nationals during the term of the licence and, if so, whether the recruitment is only in respect of positions with wages at or above the median hourly wage.

Forms of Security

If a THA or recruiter is required to provide a security to the Director, it can be either an electronic irrevocable letter of credit or a surety bond. In either case, it must be in the amount of \$25,000 CAD.

A **letter of credit** is a promise by a bank to advance a given amount of money to the Director in case of default by the entity. The Ontario government provides a [template](#) for the letter of credit. The letter must:

- be issued to the Director of Employment Standards;
- be issued by a legislatively prescribed bank or credit

union;

- state that it is being provided for the applicant's obligations under the *Employment Standards Act, 2000* or the *Employment Protection for Foreign Nationals Act, 2009*;
- be in the amount of \$25,000 CAD;
- be irrevocable during its term;
- renew automatically when it expires, unless the bank or credit union states that it will provide a minimum of ninety days' notice to the Director of the expiry;
- permit partial drawings without any conditions; and
- have no other conditions.

A **surety bond** is similar, but it generally binds an insurance company rather than a bank. Surety bonds are often easier to access and do not appear on balance sheets. Analogous requirements to the above are applicable for surety bonds, but the government has not yet provided a similar template (though the government has stated that one is forthcoming). The main difference between the requirements is that a legislatively prescribed insurance company must issue the bond, rather than a bank or credit union, as is the case for the letter of credit.

Ogletree Deakins' [Toronto office](#) will continue to monitor developments and will publish updates on the [Cross-Border](#) blog as additional information becomes available.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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