

August 9, 2021

Ian Gillespie, Director  
Temporary Resident Policy and Programs Division  
Department of Citizenship and Immigration  
365 Laurier Avenue West  
Ottawa, ON K1A 1L1

Sent via email to: [IRCC.TempResRegulations-ResTempReglement.IRCC@ci.gc.ca](mailto:IRCC.TempResRegulations-ResTempReglement.IRCC@ci.gc.ca).

Dear Mr. Gillespie,

**Re: Canada Gazette, Part I, Volume 155, Number 28: Regulations Amending the Immigration and Refugee Protection Regulations (Temporary Foreign Workers) - Notice published on July 10, 2021**

The Ontario Federation of Agriculture (OFA) is pleased to provide comments regarding the proposed regulatory amendments to the Immigration and Refugee Protection Regulations (IRPR). OFA is the largest general farm organization in Ontario, proudly representing more than 38,000 farm family members across the province. OFA has a strong voice for our members and the agri-food industry on issues, legislation and regulations governed by all levels of government. We are passionate and dedicated to ensuring the agri-food sector and our rural communities are included, consulted, and considered in any new and changing legislation that impacts the sustainability and growth of our farm businesses.

Ontario's diverse and innovative agri-food sector is a powerhouse for the province – growing and producing more than 200 farm and food products, fuelling our rural communities and driving the provincial economy by generating more than 860,000 jobs and contributing over \$47 billion to Ontario's annual GDP. We are the leading agricultural advocate for Ontario farmers, their businesses, and their communities.

OFA represents the interests of Ontario's farm businesses – the employers of farm labour. In that role, we take our obligations to farm workers seriously and believe that all farm workers, from both Canada and abroad, should be treated with dignity and respect, and be provided with a safe, fair, and rewarding work environment.

While the OFA supports the principle of providing jobs to Canadians first, foreign labour is also required to fill a significant and ever-increasing shortfall in farm labour. OFA strongly supports continued access to foreign agricultural labour given there is a shortage of Canadian workers seeking agricultural employment. We are committed to ensuring the Temporary Foreign Workers Program (TFWP) continues to operate effectively for farm employers and workers.

In its role as an advocate for Ontario's farm employers, OFA works closely with our partners in Ontario's many agricultural commodity organizations and with the Foreign Agricultural Resource Management Service (FARMS). Together we represent the unified voice of farm employers from

across the province; from over 200 different commodities; from big farms and from small; and from large employers to those that have only one employee.

We agree with ESDC and IRCC that “the success and continued growth of the Canadian economy depends on a number of factors, including the contributions of temporary foreign workers”<sup>1</sup>. This statement is especially true for the continued success of the Canadian agricultural sector. Our farmers continue to face a critical labour shortage. According to recent research by the Canadian Agricultural Human Resources Council (CAHRC), the gap between the available Canadian supply of workers and the agricultural sector’s demand has doubled in size since 2007 to over 62,000 people in 2017. Thankfully, Canada is fortunate to have the TFWP that enables willing foreign workers to be employed on our farms and processing operations to satisfy much of this gap. However, even though the number of temporary foreign workers (TFWs) has increased over the last several years, there remains over 16,000 unfilled job vacancies in Canada’s agricultural workforce.

Key findings from research conducted by CAHRC on the impact of the COVID-19 pandemic on agricultural production highlights the value of TFWs to Canada’s farms. In their report, *Understanding the Effects of COVID-19 on Canada’s Agriculture Workforce*, CAHRC found that “Labour shortages attributed to COVID-19 had significant impacts on farm operations, including excessive stress for owners and other staff, production delays, overtime costs, and delayed or canceled investment or expansion. In addition, we estimate these shortages resulted in 2.9 billion in lost sales, equivalent to roughly 4.2% of the sector’s total”. Furthermore, they found that the agricultural sector faced a “significant labour challenges during this time, including widespread labour shortages. During record levels of unemployment, 41% of surveyed employers were not able to find all the workers they needed. What is more, 71% of employers who reported labour shortages *cited fewer Canadian applicants.*”<sup>2</sup>

The nature of agricultural production is a fundamental driver for OFA’s position and advocacy on farm labour issues. Our farm workplaces are different. At its core, farming attempts to control the growth of plants and animals under conditions that are rarely under a farmers’ control. To do this successfully, it requires a very *flexible* approach to managing people, and a *flexible* approach to matching human resources with the demands of food production.

Agricultural production is a highly seasonal activity, and there is a high variability around when crops are planted, and when they are ready for harvest. The challenge of growing food that is subject to highly variable weather conditions creates high risk and vulnerability of employers, especially when most of our products are marketed in a domestic or international marketplace where competition is strong, margins are very tight, and the returns on investment are not dictated by the producer.

## **Key recommendations for the proposed amendments to the Immigration and Refugee Protection Regulations (IRPR)**

### **Developing operational guidance**

We find there are a significant number of implications arising from these proposed amendments (specifically: 1.1; 1.2; 1.4; 2.4) that may not have been considered. We believe there is a strong need to develop operational guidance on how amendments to the Regulation will be interpreted to avoid overly broad or inconsistent interpretation, confusion, and delays that can impact farming

<sup>1</sup> <https://gazette.gc.ca/rp-pr/p1/2021/2021-07-10/html/reg2-eng.html>

<sup>2</sup> <https://cahrc-ccrha.ca/programs/agrilmi>

---

operations and threaten Canada’s food security. Where applicable, operational guidance should be developed in collaboration with employers to ensure consistency and bring clarity to definitions and procedures regarding what efforts program users can reasonably be expected to make to achieve compliance.

### **Addressing the Issue of Reprisal Separately**

We understand and recognize the growing pressure on policy makers to take meaningful actions to address the risk of reprisals in the workplace and ensure that workers not only know and understand their rights but are confident to exercise them. Over the last decade, the Ontario Government has introduced increased obligations for employers to ensure their employees receive training detailing their legislated workplace rights and the processes employers and employees must follow when there is a reprisal claim. OFA supports these efforts and continues to help farm employers understand their responsibilities under established workplace health and safety legislation.

While we understand the desire to address the perceived consequences of TFWs exercising their rights, we reject the amendment as proposed in 1.3 to change the definition of “abuse” to include “reprisal” against Temporary Foreign Workers. We believe it is more effective to demonstrate meaningful progress on the reprisal issue by having it addressed in standalone regulatory language rather than attempting to merge it into the existing “abuse” category.

From an operational view, we believe that incorporating reprisal into the existing abuse category carries the risk of an excessively broad application and the potential to group severe claims of reprisal such as dismissal, with those that might be considered “disciplinary measures” which are a legitimate exercise of management’s right to operate their business. We believe that assigning the category of “abuse to all instances of reprisal creates a legal constraint that would effectively force program and compliance staff to treat a sexual or physical assault the same as a single afternoon of shortened work hours. The lack of flexibility and judgement in this regard will undermine the ability of staff to assess and respond to individual circumstances of suspected reprisal in an effective and risk-based manner.

### **Grace period for new and young farmers**

The regulatory wording currently proposed related to an assessment of an employer’s “affiliates” in the LMIA process could have the unintended consequence of hindering new and young farmers from accessing the TFWP. Since the proposed regulations could reject new program applicants on the basis of their affiliations with other employers within the two years prior to their application, and that there is no existing guidance on what type of arrangements with other employers would create an “affiliation” for the purpose of the proposed regulation, it is possible that new and young farmers will have been in some arrangement that could make them ineligible, without their knowledge, or having the ability to avoid it.

We recommend that regulatory language be added to allow for a grace period for young/new farmers to review their affiliations based on a published operational definition of “affiliate” so they can make appropriate adjustments to be able to access the program at the critical start-up period of their farming career.

---

## Considering the Mental Wellbeing of Canada's Farmers

Operating a successful farm in Canada is not an easy task – the stress and anxiety over the last two growing seasons have taken a significant toll on the mental health and wellbeing of our farmers, especially among those who must rely on Temporary Foreign Workers on their farms.

In the 2019 Report from The House of Commons Standing Committee on Agriculture and Agri-food, Mental Health: a Priority for our Farmers, the Committee recommended that “the Government of Canada examine the process of audits and labour reviews in order to 1) ensure the least amount of stress and disruption to the agricultural producer and those dependent on them for work since extremely negative impact on the mental well-being of the producers and those around them can result from poorly managed audits and labour reviews...”.

The Committee further recommended that, “the Government of Canada and pertinent departments, when considering and implementing regulatory change, take into account the impact any changes may have on agricultural producers and related industry persons and mitigate potential stressors by 1) giving ample time for consultation, 2) ensuring that all persons affected by the changes are kept informed from beginning to end and 3) give full consideration to withdrawing said changes or amending them if the impact is found to be of great negative impact on the Canadian agricultural sector”<sup>3</sup>.

We recommend that as government moves forward with any amendments to the IRPR to consider the impact on the mental health and wellbeing of farm employers, ensure the impacts are as minimal and manageable as possible.

Sincerely,



Peggy Brekveld  
President

cc: Brian Hickey, Director General, Temporary Foreign Worker Program, Employment and Social Development Canada (Email: [EDSC.DGCE.DPIRP.TET-TFW.IPPI.SEB.ESDC@hrsdc-rhdcc.gc.ca](mailto:EDSC.DGCE.DPIRP.TET-TFW.IPPI.SEB.ESDC@hrsdc-rhdcc.gc.ca))

OFA Board of Directors

---

<sup>3</sup> <https://www.ourcommons.ca/Content/Committee/421/AGRI/Reports/RP10508975/agrip16/agrip16-e.pdf>