

Labour Mobility at Work:



Five Years of Progress and Success

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Forum of Labour Market Ministers
Labour Mobility Coordinating Group



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Forum des ministres du marché du travail
Groupe coordonnateur de la mobilité de
la main-d'oeuvre



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Each year, tens of thousands of Canadians move from one province or territory to another in search of new employment opportunities. Labour mobility allows workers to pursue work in their chosen career and provides employers with a larger pool of potential employees to choose from. For this reason, federal, provincial and territorial governments have been collaborating to ensure labour mobility for certified workers in all regulated occupations.

In 2014, an important milestone was reached – the fifth anniversary of the amendments to the Labour Mobility Chapter (Chapter 7) of the Agreement on Internal Trade (AIT). The amendments to Chapter 7, enacted in 2009, created a new approach to labour mobility for certified workers in regulated occupations. In the summer of 2014, Premiers and Labour Market Ministers, who are responsible for coordinating the implementation of Chapter 7, highlighted labour mobility as a real and concrete area of progress. The Labour Mobility Coordinating Group (LMCG)¹, established by the Forum of Labour Market Ministers (FLMM), supports the coordination, implementation and monitoring of Chapter 7 to develop consistent interpretation and proper application.

¹The FLMM works to promote discussion and cooperation on common labour market concerns, including labour mobility and the implementation of Chapter 7. To assist with the implementation of Chapter 7, the FLMM established the LMCG, with representatives from the federal, provincial and territorial governments.

Labour Mobility in Canada

The Agreement on Internal Trade was designed to facilitate the free movement of people, goods, services and investment within Canada to establish an open, efficient and stable domestic market. Signed by federal, provincial and territorial governments², the AIT came into effect in 1995. Chapter 7 of the AIT is a formal agreement intended to eliminate barriers that restrict labour mobility for certified workers in regulated occupations.

Provinces and Territories are responsible for their labour markets and the regulation of occupations. Across Canada, there is considerable variation in how occupations are regulated in each jurisdiction. In many cases, jurisdictions have delegated the authority to govern occupations to regulatory authorities. These regulatory authorities set the standards for practice and the process for certifying workers.

Fact or Fiction

Not all jurisdictions have implemented amendments to Chapter 7 of the AIT - **Fiction**

The federal government and all provinces and territories² have signed on to the AIT and have adopted amended provisions of Chapter 7. The participation and leadership of all has had a significant and positive impact on labour mobility.

Fact or Fiction

All regulated occupations are covered under the Labour Mobility Chapter - **Fact**

Chapter 7 applies to all regulated occupations that require certification to practice or use of an occupational title.

Non-certified workers, apprentices and students (e.g. articling law students, medical residents, interns) are not covered.

In 2009, amendments to strengthen Chapter 7 were approved by governments, changing the landscape for labour mobility across Canada. Prior to the 2009 amendments, regulated workers moving from one province or territory to another faced a range of barriers, including lengthy application processes, additional examinations and training requirements. Since amending Chapter 7, the burden of proof is now on provinces and territories to demonstrate why a certified worker in a regulated occupation is not qualified to practice his/her occupation in that jurisdiction.

Under Chapter 7, the fundamental obligation to recognize the qualifications of certified workers applies to all regulated occupations, including both Red Seal and non-Red Seal trades. The LMCG estimates that nearly 400 professions and skilled trades are covered by the provisions of Chapter 7.

² Except Nunavut, which has observer status.

Chapter 7: The Cornerstone of Labour Mobility

Chapter 7 is the cornerstone of labour mobility in Canada, allowing certified workers to be recognized as qualified in any other jurisdiction.

Based on the principle of “certificate-to-certificate” recognition, the Chapter permits any worker certified for an occupation in one jurisdiction to be, upon application, certified for that occupation in another jurisdiction without additional material training, experience, examinations or assessments.

Chapter 7 compels regulatory authorities to trust and recognize the due diligence applied by other regulatory authorities in determining that a worker is qualified to practice an occupation or use an occupational title. However, for those regulated occupations that do have a significant difference in occupational standards, jurisdictions can issue exceptions to the “certificate-to-certificate” principle when there is evidence that the public interest is at risk. In most cases, exceptions exist where there is a significant difference in the activities required to perform an occupation across jurisdictions.

While exceptions to labour mobility in the form of additional requirements are allowable under certain circumstances, these additional requirements must be approved by the government responsible for the occupation. Additional material requirements are permitted when:

- the purpose is to achieve a legitimate objective (such as public safety, consumer protection, etc.);
- the requirement is not more restrictive than necessary to achieve that legitimate objective; and
- the requirement does not create a disguised restriction to labour mobility.

Chapter 7 requires that each government provide transparent and clear information to explain any additional certification requirements. In each jurisdiction, additional material conditions required from out-of-jurisdiction applicants must be made public and posted on the AIT website and the LMCG website.

Fact or Fiction

Non-material requirements for certification are allowed - **Fact**

There are some types of certification requirements that are allowed under Chapter 7 as they are not considered “material”. These certification requirements on workers from other Canadian jurisdictions could include:

- application fees;
- insurance, bond or malpractice coverage;
- criminal background check;
- evidence of good character and good standing;
- knowledge of applicable laws or measures regarding the occupation in the new jurisdiction.

Labour Mobility in 2014: Chapter 7 Has Made a **Difference**

Increased Recognition of Certification

The amendments to Chapter 7 have changed how regulatory authorities approach the certification of workers moving from one Canadian jurisdiction to another. This has encouraged regulatory authorities to work together to reconcile differences, allowing workers to become certified more quickly.

All jurisdictions recognize that certification in one province or territory means that an applicant has met the required standards for certification and that public interest issues have been thoroughly addressed. It also has prompted jurisdictions to agree that there can be different ways for workers to acquire the necessary skills, knowledge and abilities required for certification in regulated occupations.

The work in implementing the amended Chapter 7 is also proving to be beneficial to internationally - trained workers who wish to continue their careers in regulated occupations in Canada. Once internationally-trained workers are certified for practice in a regulated occupation within one jurisdiction, they are afforded the same labour mobility opportunities under Chapter 7 as Canadian educated or trained certified workers.

Reconciled Standards and Processes

Under the impetus of Chapter 7, significant collaborative work has been achieved to reconcile differences in occupational standards and certification processes across provinces and territories. For example, shared exams and entry to practice competency profiles have been developed in many professions such as dentists, accountants, pharmacists, registered nurses, and doctors. Medical regulatory authorities have established inter-jurisdictional standards for physicians that wish to obtain full licensure and the architecture profession has adopted shared admission standards and a common process for certification.

Fact or Fiction

Chapter 7 only applies to certified workers that have received their training and education in Canada -
Fiction

Once an internationally-educated or trained worker becomes certified in any Canadian jurisdiction, that worker has the same labour mobility opportunities as workers that have been educated or trained in Canada.

Increased Clarity for Determining Exceptions

Amendments to the Chapter have made the process for determining exceptions to labour mobility much clearer. The exceptions process involves two objectives:

- obtain a governmental approbation for the justification for imposing additional material requirements, such as exams and training, to achieve a legitimate objective (e.g. public safety and consumer protection, among others). This requires clear evidence that there is a material difference in the scope of practice for an occupation between jurisdictions and as a result an actual deficiency in skills, knowledge or ability; and
- supporting transparency by publicly informing of the additional material certification requirements solicited by a province or a territory.

Currently, there are 43 exceptions posted for 14 regulated occupations, a relatively small total considering the number of regulated occupations that exist in Canada. Jurisdictions continue to review exceptions to ensure they are current and required.

Resolving Labour Mobility Issues

Chapter 7 has provided a strong incentive for all stakeholders to increase communication and collaboration to reduce and eliminate barriers to labour mobility. While only a few occupations have fully reconciled approaches, workers are generally able to move freely between jurisdictions.

When labour mobility issues arise, there are mechanisms in place to resolve them. When certification requirements are inconsistent with Chapter 7 obligations, issues can be resolved informally between governments. If this is not successful, the AIT provides for a dispute resolution process under Chapter 17. There are provisions for government-to-government disputes and person-to-government disputes. Dispute resolution proceedings are generally initiated only after other avenues for resolving the dispute have been exhausted.

Fact or Fiction

Exceptions to labour mobility show Chapter 7 is not working well - **Fiction**

Occupational standards and scopes of practice evolve at different rates and for different reasons across Canada. Exceptions inform Canadians when there are significant differences among regulated occupations across Canada. Jurisdictions are responsible for ensuring the public interest and to do so, may approve an exception to full labour mobility. Publicly posted on the LCMG and AIT websites, the exceptions demonstrate the commitment of jurisdictions to provide transparent information on their certification practices.

Since the 2009 amendments, only two disputes on labour mobility issues have been fully processed under the terms of Chapter 17. In 2012, two AIT Dispute Panel Decisions demonstrated that Chapter 7 strongly affirms the labour mobility opportunities for certified workers and that “certificate-to-certificate” recognition is the main principle of Chapter 7. The Panel Rulings for these disputes are posted on the AIT website (<http://www.ait-aci.ca>).

Making Connections

Over the last five years, the LMCG has pro-actively worked with regulatory authorities and organizations in select occupations to address labour mobility issues.

The LMCG has also taken a lead role in the development and implementation of:

- public guidelines for use by regulatory authorities to help them understand the Chapter;
- a consensus based process to resolve differences in the interpretation and application of Chapter 7; and,
- a common understanding among stakeholders of the provisions of Chapter 7.

Fact or Fiction

Certified workers have no recourse if their qualifications are not accepted in a new jurisdiction - **Fiction**

If a certified worker disagrees with a regulator’s decision, the worker can bring the issue to a Labour Mobility Coordinator (LMC) and seek to have the issue resolved informally. Regulatory authorities and other stakeholders can also contact their province’s or territory’s LMC for assistance. If the LMC is unable to resolve the issue there is a formal dispute resolution option available under Chapter 17 (Dispute Resolution Procedures) that the worker could access.

Moving Forward: Working **Together** to **Secure** Labour **Mobility**

Chapter 7 has had a significant and positive impact on labour mobility in Canada. Governments acknowledge the significant accomplishments made by regulatory authorities that played an important part in improving labour mobility. The 2009 amendments have supported efforts by regulatory authorities to achieve, where possible and practical, reconciliation of occupational standards and certification processes, which have significantly reduced barriers to labour mobility. The LMCG will continue to communicate with certified workers to help them understand the opportunities afforded by labour mobility.

The LMCG continues to identify and document challenges faced by regulatory authorities and certified workers, including any unintended adverse consequences resulting from the implementation of the Chapter. Information and annual reporting on labour mobility is available online on the Agreement on Internal Trade website and the LMCG website.

Chapter 7 has successfully leveraged the participation and leadership of federal, provincial and territorial governments. Governments remain committed to the advancement of labour mobility and to ensure that new barriers are not put in place. Future efforts will build on past successes that support the common goal of labour mobility for a strong and flexible Canadian work force.

Contact details and important information related to labour mobility are available on LMCG website at **www.flmm-lmcg.org**