DEADLINE FOR WRITTEN SUBMISSION: FRIDAY JANUARY 29, 2021

E-mail your written submission to the [Temporary Help Agency Consultations](https://www.ontariocanada.com/registry/view.do?postingId=35267&language=en) at Email: TemporaryHelpAgencyConsultations@ontario.ca or mail to:

Temporary Help Agency Consultations

Employment and Labour Policy Branch

400 University Avenue, 15th Floor, Suite 1502

Toronto, ON M7A 1T7

**Submission to the consultation on Temporary Help Agencies**

[Introduce your organization (or yourself) and why you are demanding full mandatory licensing of temporary help agencies and migrant worker recruiters and why that is important to you/the people you work with.]

[I / Our organization] fully support(s) the recommendations in the joint [submission by the Parkdale Community Legal Services (PCLS), Workers’ Action Centre (WAC) and Migrant Workers Alliance for Change (MWAC)](https://d3n8a8pro7vhmx.cloudfront.net/decentworknow/pages/2146/attachments/original/1611265823/THA_Consultations_-_PCLS_WAC_MWAC_file.pdf?1611265823).

The purpose of the government consultation on Temporary Help Agencies (THAs) is to improve compliance with the Employment Standards Act (ESA). Ministry of Labour, Training and Skills Development (MLTSD) inspections have exposed what temporary agency workers and migrant workers have known for years, that there is widespread non-compliance with the ESA and Employee Protection for Foreign Nationals Act (EPFNA).

It is not just a few “bad apples” or smaller agencies with little footprint that contributes to persistent non-compliance. Rather it is the triangular employment relationship and recruiter supply chains that leave workers open to abuse with no way to protect themselves. It is the client company that contracts with agencies for assignment employees and employers that contract with recruiters for migrant workers that must bear liability for compliance with the ESA and EPFNA.

There are little capital costs involved in setting up and operating temporary help and recruitment agencies. Increasingly, agencies operate through the internet and do not necessarily require much infrastructure. Therefore, owners can easily shut down operations under one name and reopen under another name with or without incorporation. Larger agencies may subcontract to smaller agencies with or without the client company knowing about it.

Recruitment agencies play a central role in the transnational recruitment of migrant workers for employment in Ontario’s agriculture, fisheries and food supply, transportation, tourism, in-home care work for children, the elderly and people with disabilities, food services and much more. The exploitation of migrant workers by some recruiters who charge thousands of dollars in “recruitment fees” for jobs, including jobs that disappear or are substantially different than agreed to, has been well documented.

While it is necessary to regulate recruiters and agencies of migrant workers in agriculture, as well as migrant worker recruiters in other industries, it is crucial that recruiters and agencies not be decontextualized as individual bad apples. As research from Migrant Workers Alliance for Change found, the primary reason for infection and transmission in agricultural workers was poor housing and working conditions, which are controlled by agricultural employers (client companies). While some THAs do connect undocumented or non-migrant agricultural workers to farming operations, they remain a minority.

The lack of a legislative licensing architecture enables the growth of noncompliance with Ontario’s ESA, EPFNA and Occupational Health and Safety Act (OHSA). Ontario needs a proactive regime of mandatory licensing of temporary help agencies and recruiters of migrant workers. Mandatory licensing will better protect those made vulnerable through the triangular employment relationship and level the playing field for temporary help agencies and client companies.

That is why we support the PCLS-WAC-MWAC joint submission in its call for a legislative requirement for all temporary help agencies and recruitment agencies to be licensed in order to operate in Ontario. Client companies must be prohibited from using unlicensed agencies. **To this end, we support the submissions by Migrant Workers Alliance for Change, Workers Action Centre and Parkdale Community Legal Services and put in place all** [**recommendations**](https://d3n8a8pro7vhmx.cloudfront.net/decentworknow/pages/2146/attachments/original/1611265823/THA_Consultations_-_PCLS_WAC_MWAC_file.pdf?1611265823)**:**

* Recommendation 1: We strongly recommend that the regulations set out under WSIA s 83(4) be immediately brought into effect.
* Recommendation 2: Ontario should follow Quebec, British Columbia and Alberta in requiring that both temporary agencies and agencies that recruit migrant workers be required to obtain a license from the Ministry of Labour, Training and Skills Development (MLTSD) to operate in Ontario. Licenses should be separate, require names of all individuals and corporate entities associated with the operation seeking licensing and be valid for one year.
* Recommendation 3: We recommend that Ontario follow the lead of British Columbia and make agencies liable for any violations by partners, affiliates or agents of the recruiter and the temporary help agency.
* Recommendation 4: TFW and Recruitment Agencies must provide a security deposit in order to obtain a license.
* Recommendation 5: A public list of recruiter and temporary agencies must be created.
* Recommendation 6: Client companies should be required to maintain records of all temporary agencies and their assignment employees under contract for up to two years (ESA limitation period).
* Recommendation 7: In addition to the general licensing requirements, Ontario should consider restricting the pool of people that can become licensed as recruiters of migrant workers as is the case in Manitoba.
* Recommendation 8: There should be a mandatory registry of employers.
* Recommendation 9: Enforcement must include
	+ Full disclosure along the recruitment process and subcontracting supply chain.
	+ Joint liability along that supply chain. Client companies and temporary help agencies are already jointly liable for reprisals and unpaid wages, overtime and holiday pay. This must be extended to include joint liability among subcontracted agencies for licensing. This is necessary to stop client companies and agencies from evading the licensing system by subcontracting to smaller and more informal temporary agencies that are not licensed and that operate under the radar. Similarly, recruiters must be liable for any illegal fees charged to workers along the supply chain whether that takes place in or outside of Canada.
	+ Temporary help agency employees and migrant workers must be able to make anonymous complaints of any violations of the new licensing system.
* Recommendation 10: We recommend that the security deposit be no less than $25,000.
* Recommendation 11: There should be a minimum set (automatic) fine of $15,000 for failing to use a licensed agency directly or indirectly.
* Recommendation 12: We recommend that the mandatory licensing be brought into effect 6 months after enabling legislation has been passed.