

**NOTICE OF AUTHORIZATION OF A CLASS ACTION
REGARDING “EMPLOYER-TYING MEASURES”¹ IMPOSED ON TEMPORARY FOREIGN
WORKERS, INCLUDING EMPLOYER-SPECIFIC OR “CLOSED” WORK PERMITS**

On September 13, 2024, the Superior Court of Québec authorized a class action against the Attorney General of Canada.

The class action challenges the constitutionality of certain provisions of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “**Impugned Provisions**”).

The class action alleges that the Impugned Provisions allow the Government of Canada to impose “employer-tying measures”¹ on temporary foreign workers (sometimes referred to as migrant workers). Those measures include what is known as an employer-specific work permit or “closed” work permit. This type of permit only authorizes work in Canada for a specific employer (or group of employers), or at a specific workplace location (or group of locations). Other forms of “employer-tying measures” can result from the situation of certain foreign nationals authorized to work in Canada without a work permit.

The class action is brought on behalf of all persons in the class described below (the “**Class**”), as approved by the Court:

“Any person who (a) on or after April 17, 1982, worked in Canada as a foreign national (*i.e.* without being a Canadian citizen or a permanent resident of Canada at the time, and including a stateless person) and (b)(i) was issued a work permit conditional on engaging in work for a specific employer or group of employers or at a specific employer workplace location or group of locations; or (ii) was authorized to work without a work permit as a result of being employed by a foreign entity on a short-term basis or as a result of being employed in a personal capacity by a temporary resident, including a foreign representative.

For clarity, subparagraph (b)(ii) **includes** (without limitation) accredited domestic workers employed in a personal capacity by certain foreign representatives, such as ambassadors, high commissioners, heads of international organizations, special representatives, or individuals occupying similar positions, but **does not include** individuals who were employed by a foreign State or other foreign entity to work at an embassy, a high commission, a consulate, a permanent delegation to a United Nations agency, or a special representative office, and **also does not include** individuals employed by the United Nations, its agencies or an international organization of which Canada is a member.”

The Association for the Rights of Household and Farm Workers (RHFV) was appointed as Representative Plaintiff.

The Attorney General of Canada contests the merits of the class action. To decide the class action, a trial will be held in the judicial district of Montréal.

¹ The Attorney General of Canada contests the qualification of the Impugned Provisions as “employer-tying measures”, which comes from the Representative Plaintiff’s allegations and the [authorization judgment](#).

WHO IS A MEMBER OF THE CLASS?

You are a member of the Class **IF** you worked in Canada after April 17, 1982, as a temporary foreign worker (which means that you were not a Canadian citizen or a permanent resident of Canada at the time), **AND IF** you also meet at least one (1) of the following conditions:

- You were issued a work permit which included the condition of working for a specific employer (or group of employers) or at a specific employer's workplace (or group of workplaces):
 - **You meet this condition** if you were hired through the Temporary Foreign Workers Program (TFWP), the Seasonal Agricultural Worker Program (SAWP) or the Non-Immigrant Employment Authorization Program (NIEAP).
 - **You also meet this condition** if you were hired through the International Mobility Program (IMP) or another immigration stream or program and your work permit included the condition of working for a specific employer (or group of employers) or at a specific employer's workplace (or group of workplaces).

OR

- You were authorized to work in Canada without a work permit because you were employed by a foreign entity on a short-term basis, or because you were employed in a personal capacity by an individual who was not a Canadian citizen or permanent resident. Please note that this category:
 - **includes** domestic workers, personal assistants or caregivers (nannies or au pair) who entered Canada along with their employers, or to join their employers for a short-term in Canada;
 - **includes** accredited domestic workers employed in a personal capacity by certain foreign representatives, such as ambassadors, high commissioners, heads of international organizations, special representatives, or individuals occupying similar positions;
 - **does not include** individuals who were employed by a foreign State or other foreign entity to work at an embassy, a high commission, a consulate, a permanent delegation to a United Nations agency, or a special representative office;
 - **does not include** individuals employed by the United Nations, its agencies or an international organization of which Canada is a member.

If you meet the conditions mentioned above, you are a member of the Class even if:

- You do not work in Canada anymore;
- You now live outside Canada; or
- After working in Canada as a temporary foreign worker, you eventually became a permanent resident of Canada or a Canadian citizen, or if you remained in Canada without status.

The definition of the Class for the purposes of this class action has no legal impact on the immigration status of accredited foreign representatives.

WHAT IS THE PURPOSE OF THE CLASS ACTION?

The Representative Plaintiff argues that “employer-tying measures” are unconstitutional because they breach sections 7 and 15(1) of the *Canadian Charter of Rights and Freedoms* (the “**Charter**”). The Representative Plaintiff also argues that the Government of Canada was aware of the harmful impacts of “employer-tying measures”, but did not stop imposing them on temporary foreign workers.

The Representative Plaintiff asks the Superior Court of Québec to declare that the Impugned Provisions are unconstitutional, and to order the Government of Canada to pay damages (monetary compensation) to all Class Members under paragraph 24(1) of the *Charter*.

The main questions, as per the [authorization judgment](#), which will be submitted to the Superior Court of Québec during the trial are the following:

- 1) “Did the imposition of employer-tying measures by the Government of Canada deprive the Class Members of life, liberty or security of the person, as they are understood under section 7 of the *Charter*?”
- 2) Did such deprivation fail to accord with the principles of fundamental justice, in violation of section 7 of the *Charter*?
- 3) Did the imposition of employer-tying measures by the Government of Canada infringe the Class Members’ right to the equal protection and equal benefit of the law without discrimination based on race, national or ethnic origin, or colour, in violation of paragraph 15(1) of the *Charter*?
- 4) Were such violations justified under section 1 of the *Charter*?
- 5) Are the Impugned Provisions unconstitutional and consequently of no force and effect, insofar as they allow the Government of Canada to continue subjecting foreign nationals to direct or indirect employer-tying measures?
- 6) Is it appropriate and just to award damages to the Class Members pursuant to paragraph 24(1) of the *Charter*? If so, what is the appropriate quantum of such damages?
- 7) What prescription or limitation period applies to the Class Members’ claims for damages?
- 8) What circumstances common to the Class Members are relevant to the determination of whether the prescription or limitation period began to run and, if so, whether it was suspended or tolled?”

The conclusions sought by the Representative Plaintiff are the following:

GRANT the originating application;

DECLARE that sections 185(b), 186(a), 186(b), 187(1), 187(3), 200(1)(c)(ii.1), 200(1)(c)(iii), 200(5) and 203 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 are unconstitutional and of no force and effect;

CONDEMN the Attorney General of Canada to pay to each of the Class Members, including the Designated Member, damages pursuant to paragraph 24(1) of the *Charter*, in an amount to be determined;

CONDEMN the Attorney General of Canada to pay to each of the Class Members, including the Designated Member, pecuniary and non-pecuniary compensatory damages, in an amount to be determined;

CONDEMN the Attorney General of Canada to pay to each of the Class Members, including the Designated Member, punitive damages, in an amount to be determined;

ORDER the collective recovery of the damages to be paid to the Class Members by the Attorney General of Canada;

ORDER the individual liquidation of the Class Members' claims or the distribution of an amount to each Class Member;

THE WHOLE, with costs.

DO I HAVE TO DO ANYTHING?

You are not required to do anything in order to become a member of the class action. You are automatically included in the class action if you meet the criteria mentioned above.

There is only one exception, which applies only if you have personally introduced a lawsuit against the Attorney General of Canada with the same subject matter as the class action. Any Class Member in this situation who does not discontinue his or her lawsuit before the time for opting out (indicated below) has expired will be deemed to have opted out of the class action.

A Class Member will never be required to pay legal costs arising from the class action, except if the Class Member actively intervenes in the class action (this is further explained below).

A new notice to the Class Members will be issued at the time of the final judgment on the class action, or in the case of any settlement.

CAN I OPT OUT OF THE CLASS ACTION?

If you **do not want** to be included in the class action, you may **opt out** of the Class by sending a written notice to the clerk of the Superior Court of Québec in the judiciary district of Montréal at the following address, **before August 27, 2025 at 4:30 p.m.** :

Office of the Superior Court of Québec
Montréal Courthouse
1, Notre-Dame Street East
Montréal (Québec) H2Y 1B6

Your notice must state that you wish to opt out of the class action filed by the Association for the Rights of Household and Farm Workers against the Attorney General of Canada, as well as the docket number, 500-06-001263-231.

If you opt out of the Class, you will not be bound by any judgment in the class action. If the class action is granted or settled and monetary compensation is paid to the Class Members, you will not be eligible to receive any such compensation.

Any Class Member who does not opt out of the Class within the deadline and in the manner indicated above will be bound by any judgment rendered in the class action.

ACTIVELY INTERVENING IN THE CLASS ACTION

A Class Member may apply to the Superior Court of Québec to actively intervene in the class action. This requires a special proceeding called a declaration of intervention. Intervening in the class action is not the same as being included in the class action. If you simply wish to be included in the class action and to be eligible to receive monetary compensation in the event of a favourable judgment or settlement of the class action, **you do not need to intervene in the class action.**

The Superior Court of Québec will allow an intervention if it is of the opinion that it will be helpful to the Class. Please note that a Class Member who chooses to intervene may be required to undergo an examination at the request of the Attorney General of Canada.

A Class Member who chooses to actively intervene in the class action may be required to pay legal costs.

TO LEARN MORE

For any information about the class action, you can contact the attorneys for the Representative Plaintiff and the Class, **at no cost to you**, at the following coordinates:

M^e Aliosha Hurry
M^e Alexandra Belley-McKinnon
M^e Guillaume Charlebois
M^e Jean-Philippe Groleau
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Montréal (Québec) H3A 3N9
Telephone : 514-841-6400
Fax : 514-841-6499
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You may also consult the registry of class actions at the following address:

<https://www.registredesactionscollectives.quebec/fr/Consulter/ApercuDemande?NoDossier=500-06-001263-231>

THE PUBLICATION OF THIS NOTICE HAS BEEN ORDERED BY THE COURT.