

Immigration and Refugee Protection Regulations Amendment:

Temporary Foreign Performing Artists Now Exempt from Work Permit Requirements Regardless of Venue

Introduction

Live musicians, including DJ's, bands and other performance artists, are a prominent part of the nightlife industry in many Canadian cities and help support many small businesses and the artistic community on a nightly basis. These musicians are often "temporary foreign artists", hailing from places across the globe and visiting cities like Vancouver, Toronto, Montreal and Calgary to perform on one or two nights only. Until recently, these musicians and the venues that host their performances, were subject to expensive and slow government permitting requirements. These costs were almost always borne by the venue, reducing the economic viability of maintaining these types of shows at their establishments.

The Solution

An amendment to the Immigration and Refugee Protection Regulations (IRPR), effective June 20, 2014, has created a general exemption from work permit requirements for temporary foreign artists entering Canada to perform for "time limited engagements" on a contract basis, regardless of the type of venue they will be featured in.

Prior to this amendment, if a bar or restaurant wanted to hire temporary foreign artists, the establishment had to first obtain a Labour Market Opinion (LMO) showing it had tried to hire a Canadian, but had been unsuccessful: a slow, increasingly expensive and uncertain process. If a positive LMO was issued, the artist then had to apply for a work permit. However, temporary foreign artists performing in any other type of Canadian venue were exempt from Citizenship and Immigration Canada work permit and LMO requirements. This unequal treatment amounted to time-consuming paperwork for the establishments and temporary foreign artists visiting Canada to perform in bars, restaurants, and the like, while artists performing in other venues faced no such impediment.

The amendment to the IRPR rectifies this atrocity by removing the qualification that excluded performances in bars and restaurants from work permit exemptions under R186(g)(ii), thereby creating a uniform exemption from work permit and LMO requirements for temporary foreign artists entering Canada, regardless of performance venue. The changes will apply to all work permit applications filed on or after June 20, 2014, while the previous rules will continue to apply to any applications filed before June 20, 2014. The only temporary foreign artists who will still require a work permit are those (a) producing a film, television or radio broadcast, (b) not in a time-limited performance engagement, or (c) in an "employment relationship" with the Canadian organization or business contracting for their services.

According to Dan Wurtele, Director of Concerts at Blueprint Events (one of the largest entertainment, lifestyle and events organizations in Western Canada), the amendment is a buoy for both the local economy and his company. "The amendment to the [Regulations] was a celebrated move for the entertainment industry as a whole. Often, musicians visiting Canada for less than 24 hours were roped into the same regulations as foreign workers looking for extended employment. The fees created for applying for work permits virtually erased any chance of profitability for small to mid-size musical events and immediately damaged the industry, causing many Canadians to lose their jobs.

The amendment recognized that musicians (visiting Canada for hours or days) require unique classification. This recognition was coupled with the reversal of the application fee and the work permit fee allowing this industry to operate once again. Thanks to this amendment, our company has been able to produce over 450 events in 2014 sustaining over 50 full time jobs and hundreds of part time jobs in multiple provinces.”

Conclusion

The creation of a consistent exemption from work permit requirements for temporary foreign artists across performance venues comes as good news to Canadian bar and restaurant owners providing live music at their establishments. The change is expected to encourage international artists to add Canadian bars and restaurants to their list of performance destinations; venues they may not have previously considered due to tedious work permit requirements. The draw of international artists is anticipated to generate greater sales and boost business for Canadian bars and restaurants, which will, in turn, undoubtedly have a positive economic impact.