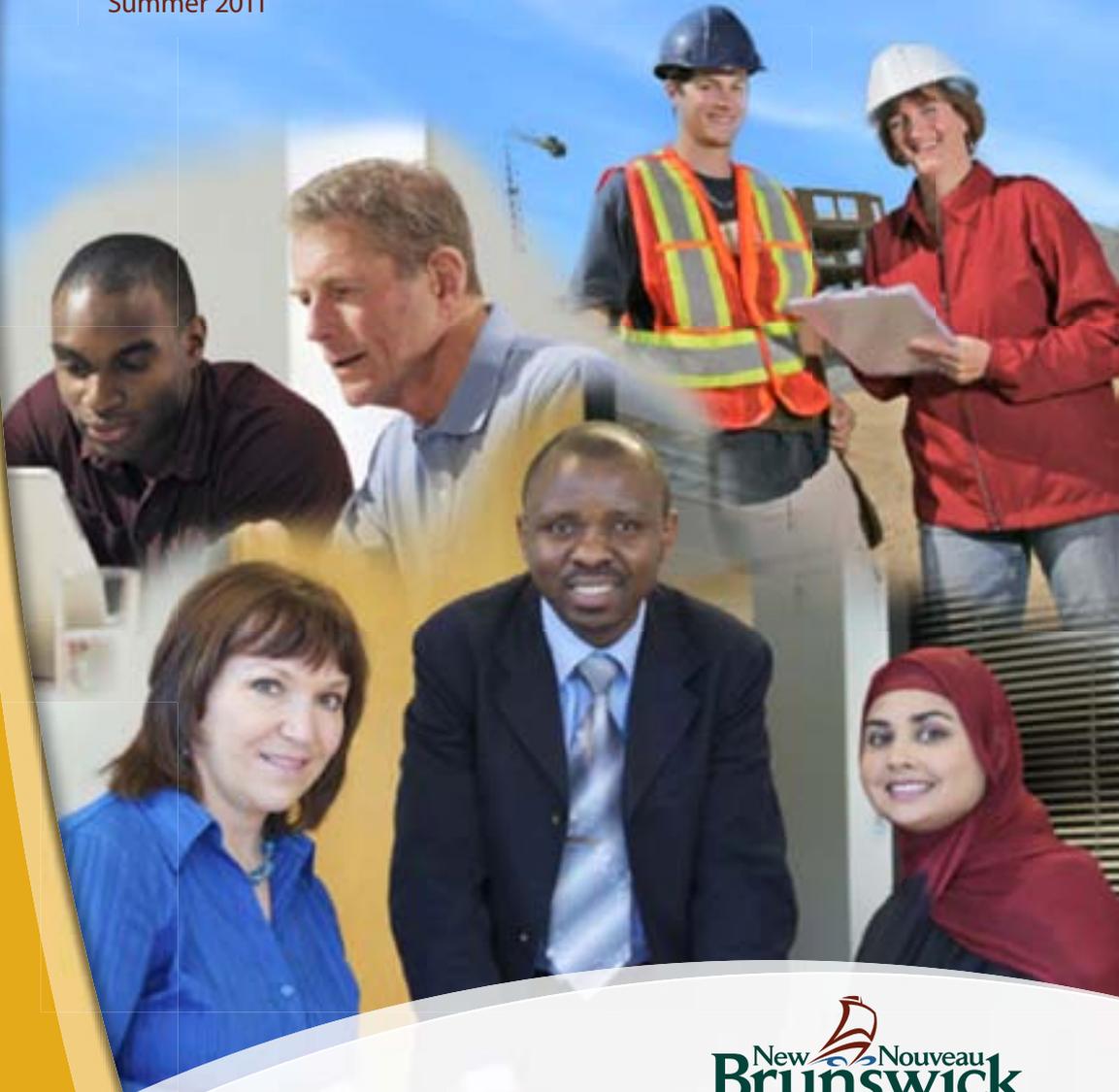


New Brunswick Temporary Foreign Workers

Employer guide

Population Growth Division
Summer 2011



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Table of Contents

Introduction:	1
Benefits of hiring temporary foreign workers:	1
Temporary Foreign Worker Program:	2
Finding temporary foreign workers:	6
General information:	8
Support for temporary foreign workers:	10
New Brunswick Provincial Nominee Program:	12
First day checklist for employers of temporary foreign workers:	13
Resources:	14

Introduction:

Foreign workers are defined as individuals who come to Canada specifically to work but remain citizens of other countries. More than 90,000 foreign workers enter Canada annually to work temporarily for Canadian employers experiencing skills and labour market shortages. In 2008, more than 6,000 temporary foreign workers came to the Atlantic region.

The hiring of temporary foreign workers can be an innovative solution to addressing staffing needs. We want them to experience a workplace that is healthy, safe and fair.

As an employer of temporary foreign workers, you must be aware that they are protected under New Brunswick's employment standards, workplace health and safety and workers' compensation legislation; and that have the same rights as other employees.

This guide will help you better understand the value of hiring foreign workers and where to find temporary ones. It also provides a step-by-step guide to the Temporary Foreign Worker Program and outlines services available to your business and the temporary foreign workers whom you will be employing.

Although there may be additional costs associated with hiring temporary foreign workers, most employers will ultimately have to devote additional resources to recruiting and retaining qualified workers in the increasingly competitive labour market.

Benefits of hiring temporary foreign workers:

Most employers will discover that temporary foreign workers bring added value to their company and can be valuable assets. Temporary foreign workers contribute:

- skills and knowledge unavailable in local labour forces;
- international experience;
- global networks (business, political and personal);
- knowledge of international markets and business practices;
- language skills that may expand your customer base and market reach;
- loyalty – a strong work ethic and a desire to succeed in New Brunswick;
- access to new markets;
- innovative ideas; and
- attitudes and experiences that cultivate a diverse and culturally friendly workforce.

Temporary Foreign Worker Program:

The federal government's Temporary Foreign Worker Program admits eligible foreign workers to work in Canada for an authorized temporary period, typically ranging from three months up to three or four years.

It usually takes three to four months from the original application date to the entry of eligible temporary foreign workers. Processing times vary depending on the country of origin and processing locations. They also vary considerably when applications are incomplete or require additional information. It is, therefore, important for you, as a New Brunswick employer interested in hiring a temporary foreign worker, to have a full understanding of the Temporary Foreign Worker Program.

Several federal government departments manage and deliver the program. Citizenship and Immigration Canada and Human Resources and Skills Development Canada / Service Canada are primarily responsible.

Any employers wishing to hire a temporary foreign worker must complete a process that may at first glance seem complicated and lengthy, but it can ultimately be useful and rewarding. This process includes the following steps:

Step 1: Determine if a Labour Market Opinion (LMO) is required

A Labour Market Opinion (LMO) is an opinion provided by Human Resources and Skills Development Canada / Service Canada to employers. This assesses the projected impact that hiring the requested foreign worker(s) may have on the Canadian labour market.

Pursuant to standard government policy and international agreements, such as the North American Free Trade Agreement and the General Agreement on Trade in Services, certain categories of work do not require a LMO while others do.

Citizenship and Immigration Canada operates temporary foreign worker units, which provide guidance to employers and provide opinions on whether employment positions are LMO exempt.

- Moncton Temporary Foreign Worker Unit:
506-851-2664; fax, 506-851-3238
e-mail: TFWU-Atlantic-UTET@cic.gc.ca

You can also determine whether you require a LMO or if you are exempt, by visiting:

- Citizenship and Immigration Canada:
www.cic.gc.ca/english/work/apply-who-permit.asp

Step 2: Apply to Service Canada for a LMO (if required)

After having determined that you require a LMO, you may obtain an application online:

- Human Resources and Skills Development Canada:
www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/temp_workers.shtml

Human Resources and Skills Development Canada / Service Canada processes all applications for LMOs, and it ensures that all necessary requirements are met. Service Canada centres that process foreign worker requests (e.g., LMO applications) are located throughout the province.

If you are applying for academics (university professors), physicians or specialists, registered nurses, send your application to:

- Service Canada:
Temporary Foreign Worker – centre of specialization,
1 Agar Place, P.O. Box 7000,
Saint John, NB
E2L 4V4
Fax: 1-866-585-7524 (toll-free)

For all other occupations, send your application to:

- **Edmundston and Grand Falls / Campbellton and Restigouche / Bathurst and Chaleur regions**
Service Canada
Federal Building,
22 Emmerson St.,
Edmundston, NB
E3V 1R7
506-739-0222; fax, 506-739-0228
- **Fredericton and Woodstock**
Service Canada
Box 12000,
Fredericton, NB
E3B 5G4
506-452-3823; fax, 506-465-2047
- **Moncton**
Service Canada
95 Foundry St., Suite 310,
P.O. Box 5003,
Moncton, NB
E1C 8R5
506-851-6718; fax, 506-851-6941
- **Saint John and St. Stephen**
Service Canada
1 Agar Place, P.O. Box 7000,
Saint John, NB
E2L 4V4
506-452-3823; fax, 506-465-2047

Positive LMOs:

Service Canada will issue an employment confirmation, and a response in writing will be sent to the employer. This response along with a signed job offer and employment contract (if applicable) should be forwarded to the foreign worker. A positive LMO is valid to support a foreign worker's work permit application to Citizenship and Immigration Canada for a maximum of six months after it is issued to ensure it still reflects the labour market condition.

Foreign workers may then apply for a work permit, either at a visa office abroad, a port of entry, or from within Canada (if legally permitted to do so).

For more information on work permits, visit:

- Citizenship and Immigration Canada:
1-888-242-2100 (toll-free)
www.cic.gc.ca/english/work/index.asp

A positive LMO does not guarantee that a work permit will be issued to the foreign worker. Visa and Border Services officers can refuse work permit applications and entry to Canada if they determine that the applicant does not meet the qualifications required by the LMO or are otherwise inadmissible to Canada.

Negative LMOs:

Service Canada will inform applicants, in writing, of any negative decisions. If applicants disagree with the Human Resources Skills Development Canada / Service Canada decision, or have new

information that may affect the decision, they may submit the new information to the Service Canada centre indicated on the refusal letter. This request will be re-assessed with consideration given to the new information.

Step 3: Work permit application (if required)

Citizenship and Immigration Canada and its visa offices at Canadian embassies and high commissions and consulates are responsible for processing work permit applications.

Medical examinations are required for certain occupations (such as medical or food services).

In most cases, foreign workers are required to apply for and obtain a permit to work temporarily in Canada. Some employment categories, however, are exempt from this requirement. Jobs that do not require a work permit may be found at:

- Citizenship and Immigration Canada:
www.cic.gc.ca/english/work/apply-who-nopermit.asp

To learn more about work permits, consult Citizenship and Immigration Canada's temporary foreign worker guide book:

- Citizenship and Immigration Canada:
www.cic.gc.ca/english/resources/publications/tfw-guide.asp

Or, contact:

- Temporary Foreign Worker Unit,
95 Foundry St., Suite 310,
P.O. Box 5003,
Moncton, NB
E1C 8R5
506-851-6718; fax, 506-851-6941

During the overseas processing of work permits, employers should maintain regular contact with recruited foreign workers to remain to date on the status of their work permit applications.

Step 4: Issuing of work permits

Visa and Border Services officers are responsible for screening foreign workers at all Canadian border crossings and airports prior to issuing work permits and allowing entry into Canada. These officers make all final decisions on who may enter Canada. Officers can deny entry to foreign workers if they believe the individual does not meet the requirements of the *Immigration and Refugee Protection Act*.

The complete text of the *Immigration and Refugee Protection Act*, and accompanying manuals, are found at:

- Federal Department of Justice:
<http://laws.justice.gc.ca/en/l-2.5/index.html>

To enter Canada, foreign workers must present the following documents to a Visa and Border Services officer:

- passport or travel documents valid for the period of the authorized stay (unless they are citizens of the United States, residents of Greenland or St. Pierre and Miquelon);
- a signed job offer and/or employment contract;
- an authorization letter approving a work permit application issued by Citizenship and Immigration Canada (if applicable);
- a copy of Service Canada's positive LMO (if applicable);
- a copy of the confirmation by a Citizenship and Immigration Canada temporary foreign worker unit that the job offer is exempt from a work permit or LMO (if applicable);
- evidence of credentials (education, professional and work experience, etc.); and
- a temporary resident visa (if applicable)

Seasonal Agricultural Worker Program

Employing foreign workers can help producers meet their labour needs during peak agricultural periods.

The Seasonal Agricultural Worker Program (SAWP) allows for the organized entry of foreign workers for agricultural labourer occupations in Canada for up to eight months. SAWP was developed by the federal government in co-operation with agricultural producers and several foreign governments. For more information:

- Human Resources and Skills Development Canada:
www.rhdcc-hrsdc.gc.ca/eng/workplaceskills/foreign_workers/ei_tfw/sawp_tfw.shtml

Finding temporary foreign workers:

Following are suggestions for employers to find temporary foreign workers:

Post job opportunities on online databases:

- NB Jobs
- Service Canada's Job Bank
- Monster
- Jobboom
- Workopolis

Inquire at your local immigrant-serving agencies (see Immigrant Serving Agencies, below):

Contact the labour force development officer at your local enterprise agency:

- Enterprise Network

Use the services of an employment agency with international connections or the service of a Canadian Society of Immigration Consultants approved immigration consultant (search the Internet and check the yellow pages for listings).

Participate in international job fairs abroad (contact the Population Growth Division of the Department of Post-Secondary Education, Training and Labour for more details):

- Population Growth Division,
Department of Post-Secondary
Education, Training and Labour
506-453-3981
www.gnb.ca/immigration
e-mail: immigration@gnb.ca

*Keep in mind that as an employer, you may have to apply for a LMO through the Temporary Foreign Worker Program.

Immigrant-serving agencies

Community immigrant-serving agencies work with companies to help temporary foreign workers settle and adapt to life in New Brunswick. The services available to temporary foreign workers may include:

- practical guidance on everyday living and orientation to the community;
- referral to community resources (i.e., banks, housing, health, recreational);
- employment counselling;
- computer access centre;
- social events;
- language training; and
- basic interpretation services.

Immigrant-serving agencies operating in New Brunswick:

Acadian Peninsula:

- Centre d'accueil des nouveaux arrivants de la Péninsule acadienne:
506-727-0186

Carleton County area:

- Multicultural Association of Carleton County:
506-392-6011
www.maccnb.ca

Chaleur area:

- Multicultural Association of Chaleur Region Inc.:
506-547-7651
www.macr-amrc.ca

Charlotte County area:

- Multicultural Association of Charlotte County:
506-755-9295

Fredericton area:

- Multicultural Association of Fredericton:
506-454-8292
www.mcaf.nb.ca

Miramichi area:

- Miramichi Regional Multicultural Association:
506-773-5272
www.miramichimulticultural.com

Madawaska County

- Carrefour d'Immigration Rurale du Nord-Ouest Inc.:
506-423-3060
www.immigrationrurale.ca
- Centre de ressources pour nouveaux arrivants au Nord-Ouest:
506-735-0604

Moncton area:

- Centre d'accueil et d'accompagnement francophone des immigrants du Sud-Est du Nouveau-Brunswick (CAFI):
506-382-7494
www.caiimm.org
- Multicultural Association of the Greater Moncton Area:
506-858-9659
www.magmamoncton.com

Restigouche County

- Association Multiculturelle du Restigouche:
506-789-7747

Saint John area:

- PRUDE (Pride, Race, Unity, Dignity, Education) in Saint John:
506-634-3088
www.prude.ca
- Saint John Multicultural and Newcomers Resource Centre:
506-642-4242
www.sjmnrc.ca
- Saint John YMCA-YWCA:
506-646-2389
www.saintjohny.com

General information:

Changing the conditions of a work permit

Temporary foreign workers may apply to extend their stay in Canada, change the conditions of their stay, the status, or correct problems with their status.

It is also important that temporary foreign workers apply for a permit renewal *before* their documentation expires. Applications for extension can be obtained at:

- Citizenship and Immigration Canada:
1-888-242-2100 (toll-free)

The application for extension of a work permit should be simultaneous with a new LMO application by the employer if the employer wishes to continue employing this same worker.

Termination of employment

As an employer, you need to remember that if a temporary worker does not meet your expectations as outlined in the job contract, you may terminate his or her employment by giving him or her the required notice or pay in lieu of notice. For temporary foreign workers under the Pilot Project for Occupations Requiring Lower Levels of Former Education (National Occupational Classification level C & D), you are responsible for the return airfare of the worker, regardless if they are fired.

Right to remain in Canada

Foreign workers are entitled to remain in Canada for the full term of their work permit. Employers or employment agencies cannot force a foreign worker to return home if his or her work contract is terminated before the end of the work permit; or if the foreign worker decides to find employment with another employer.

Travel costs

For occupations requiring workers with lower levels of formal training, employers are required to pay round-trip airfare costs. Lower levels of formal training are defined as occupations that typically require no more than a high school diploma or two years of job-specific training (National Occupational Classification level C & D). No travel costs may be recouped from the employee.

Health insurance

If an employer is hiring temporary foreign workers with lower levels of formal training, they are responsible for providing health insurance at no cost until the worker is eligible for provincial health insurance. Temporary foreign workers with a work permit of 12 months or more are eligible to apply for New Brunswick health care coverage (after a three-month mandatory waiting period).

Reporting violations

It is illegal to threaten, to send or coerce a temporary foreign worker to leave the country, or to prevent him or her from reporting a violation. Employers or employment agencies that engage in such behaviour may be subject to prosecution under the *Criminal Code of Canada*.

Employers cannot, under any circumstance, seize an employee's passport and/or retain travel documents against an employee's will.

Contracting an employment agency

New Brunswick employers planning to recruit temporary foreign workers, through the Temporary Foreign Worker Program, may be considering using the services of an employment agency.

When selecting an employment agency, employers should insist on seeing the agency's proof of registration. This is good business practice before entering into a contractual agreement.

It is important that employers bear in mind that, while an agency is registered, there is no guarantee that it will meet its contractual obligations or the regulatory requirements set out by the federal and provincial governments.

Typical services provided by recruitment agencies may include:

- overseas recruitment and screening of potential employees;
- arrangements for interviews by way of webcam or similar services;

Work permit terms and conditions

Applicants must meet all the terms and conditions of employment, as agreed to in the application for a LMO, the employee-employer contract (if applicable) and the subsequent confirmation issued by Service Canada.

Foreign workers must also respect all terms on their work permit, which may include restrictions on employer, occupation and work location.

- assistance with the immigration process;
- assistance with credential recognition and professional certification;
- travel and moving arrangements for selected candidates;
- settlement services (including transportation, accommodation and attainment of key documents); and
- follow-up with temporary foreign workers.

Should an employer choose to hire the services of an employment agency, the employer remains responsible for the accuracy of the information provided to Citizenship and Immigration Canada. Employers are also responsible for confirming that the occupation, location, and name of the employer specified on the work permit correspond with the work required. For further information about the use of employment agencies, contact:

- Citizenship and Immigration Canada:
1-888-242-2100 (toll-free)

Support for temporary foreign workers:

It is important that employers take extra time to help temporary foreign workers settle into the community and integrate into the workplace. Most new immigrants will face challenges and frustrations. Foreign workers who do not adjust well to life in Atlantic Canada may not ultimately remain in the region.

Employers are encouraged to provide settlement services to their temporary foreign workers. The Population Growth Division of the Department of Post-Secondary Education, Training and Labour has programs to help employers provide onsite settlement services to foreign workers. To learn more about these programs, ask to speak with a program consultant at:

- Population Growth Division
Department of Post-Secondary Education, Training and Labour
506-453-2491

Temporary foreign workers may also be able to obtain settlement services through local immigrant-serving agencies operating in New Brunswick, and they should be informed about these resources.

Cultural competency training

Introducing employees who come from different cultural, religious and linguistic backgrounds may be a new experience for many workforces. Employees may not have previous experience with diversity, and they may have concerns that will need to be addressed. Building cultural competency and awareness into the workplace, before new employees arrive, is crucial to the successful integration and retention of temporary foreign workers.

To make workplaces more welcoming to temporary foreign workers, many employers ask that their staff participate in cultural competency training exercises. These teach employees about the positive aspects of a diverse workforce and illustrate what steps can be taken to

create welcoming workplaces. Employers can obtain cultural competency training through the following organizations:

- New Brunswick Multicultural Council Inc.:
506-453-1091
www.nb-mc.ca
- CompreCultures:
506-639-8275
www.comprecultures.com
- Profiles Global:
506-642-7722
www.profilesglobal.com
- Cross Cultural Training Associates:
506-529-3398
e-mail: jeasley@nbnet.nb.ca
- Diversis:
506-737-9600
www.diversis.ca

Settling in New Brunswick

If you have questions about settling in New Brunswick, settlement agencies or other settlement related questions, contact:

- Population Growth Division
Department of Post-Secondary
Education, Training and Labour
506-453-2491
www.gnb.ca/immigration

New Brunswick Provincial Nominee Program:

The New Brunswick Provincial Nominee Program (PNP) can be a useful tool for employers who wish to retain their temporary foreign workers. This program can help these workers and their families become permanent residents in Canada.

A permanent solution to staffing needs

The PNP, operated by the Government of New Brunswick in conjunction with Citizenship and Immigration Canada, helps to accelerate the immigration process for qualified foreign workers in targeted occupations.

Through the PNP, employers can retain their temporary foreign workers or international graduates by offering them permanent employment and assisting them in obtaining permanent resident status in Canada. This process involves the following steps:

- visit the www.gnb.ca/immigration to review eligibility criteria and determine the appropriate PNP category under which to apply;
- download and complete the PNP application forms and gather all supporting document; and
- mail a complete application to:
Population Growth Division
Department of Post-Secondary Education, Training and Labour
P.O. Box 6000, Fredericton, NB
E3B 5H1

Applications that meet PNP eligibility criteria may be approved as provincial nominees. Permanent resident applications will be submitted to a Canadian visa post by the PNP officer.

Citizenship and Immigration Canada will screen the file for inaccuracies and arrange for health, criminal and security checks following the approval of an application. If these checks are passed, the applicant will receive his or her permanent residence status.

Citizenship and Immigration Canada will make the final decision on whether the individual qualifies for a permanent resident visa.

For more information:

- Provincial Nominee Program
www.gnb.ca/immigration

Immigrate to New Brunswick

If you have questions about working in New Brunswick, the PNP or other immigration-related questions, contact:

- Population Growth Division
Department of Post-Secondary Education, Training and Labour
506-453-3981
www.gnb.ca/immigration
e-mail: immigration@gnb.ca

First day checklist for employers of temporary foreign workers:

Review employee's work permit for validity and accuracy – confirm employer name, location of employment, occupation, employee name and date of birth.

Wage and payment of earnings:

- confirm rate of pay;
- confirm how employee will be paid and when; and
- review payroll deductions.

Hours of work and rest:

- specify employee's hours of work (including breaks).

Overtime and overtime pay:

- discuss overtime and payment arrangements.

Vacation, vacation pay and general holidays:

- discuss vacation leave, approvals and pay; and
- review general holiday entitlements.

Workplace safety:

- discuss hazards of the job;
- explain all other identified hazards of the workplace;
- tell employee about any required training and when it will take place;
- show employee appropriate safety equipment and how to use it properly;
- tell employee with whom to speak about health and safety;
- discuss what to do if injured on the job;
- review emergency procedures, including:
 - location of first aid kits;
 - location of fire extinguishers; and
 - evacuation plan.

Other:

- contacting an immigrant-serving agency;
- registering for New Brunswick health insurance;
- applying for a social insurance number.
- opening a bank account;
- obtaining a driver's licence;
- accommodations, telephone, Internet and utilities; and
- indicate where medical services can be obtained.

Resources:

New Brunswick

- Employment standards:
Department Post-Secondary Education,
Training and Labour
1-888-452-2687 (toll-free);
506-453-2725
www.gnb.ca/labour
- New Brunswick medicare card (public
health insurance):
www.gnb.ca/medicare
- Population Growth Division
Department of Post-Secondary
Education, Training and Labour:
506-453-3981
www.gnb.ca/population
- New Brunswick Provincial Nominee
Program:
www.gnb.ca/immigration
- SolutionsNB:
www.solutionsnb.ca
- Service New Brunswick:
1-888-762-8600 (toll-free within North
America)
506-684-790 (outside of North
America)
Hours of operation: Monday to Friday
8:30 a.m. to 8 p.m.; Saturday, 9 a.m. to
1 p.m. (Atlantic time)
www.snb.ca
- WorkSafeNB:
1-800-222-9775 (toll-free),
506-632-2200
webmaster@ws-ts.nb.ca

Canada

- Citizenship and Immigration Canada:
1-888-242-2100 (toll-free)
www.cic.gc.ca
- Service Canada:
www.servicecanada.gc.ca