



Guidelines for meeting the obligations of the Labour Mobility Chapter of the CANADIAN FREE TRADE AGREEMENT



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Cette publication est également disponible en français sous le titre *Lignes directrices pour satisfaire aux exigences du chapitre sur la mobilité de la main-d'oeuvre de l'Accord de libre-échange canadien (ALEC)*.

The *Guidelines for meeting the obligations of the Labour Mobility Chapter of the Canadian Free Trade Agreement (CFTA)* does not constitute a legal interpretation of Chapter Seven of the CFTA and does not supersede federal/provincial/territorial legislation.

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Introduction from the Forum of Labour Market Ministers (FLMM)

The Forum of Labour Market Ministers (FLMM) is pleased to present the *Guidelines for meeting the obligations of the Labour Mobility Chapter (Chapter Seven) of the Canadian Free Trade Agreement (CFTA)*.

The purpose of the Guidelines is to assist regulatory authorities in Canada, both governmental and non-governmental bodies, that have authority delegated by law to create or implement measures related to certification requirements in a regulated occupation. The Guidelines also assist regulatory authorities to understand the Labour Mobility Chapter of the CFTA and how to comply with its obligations.

As the Ministers responsible for promoting the implementation of Chapter Seven on behalf of federal, provincial and territorial governments, we trust that these Guidelines will be a useful tool for helping regulatory authorities and governments eliminate or reduce barriers that restrict, or impair, labour mobility in Canada.

For additional information about Chapter Seven, including contact information for federal, provincial, and territorial Labour Mobility Coordinators, please visit: www.workersmobility.ca.

For more information about the CFTA, including the full text of the Agreement, please visit: www.cfta-alec.ca.

For additional information about the FLMM please visit: www.flmm-fmmt.ca/.

The Canadian Free Trade Agreement (CFTA)

On July 1, 2017 the CFTA replaced the Agreement on Internal Trade (AIT), which entered into force in 1995. The CFTA is an intergovernmental trade agreement signed by all federal, provincial and territorial governments. Its objective is *“to reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services and investments within Canada and to establish an open, efficient, and stable domestic market”*.

Except where otherwise noted, [Chapter One \(Initial Provisions\)](#) and [Chapter Two \(General Rules\)](#) apply to all chapters of the CFTA including Chapter Seven (Labour Mobility).

Chapter Seven (Labour Mobility)

Purpose and Fundamental Obligations

"The purpose of this Chapter is to eliminate or reduce measures adopted or maintained by the Parties that restrict or impair labour mobility within Canada, and in particular, to enable any worker certified for an occupation by a regulatory authority in one Party to be recognized as qualified for that occupation by all other Parties" (Article 700). (See Box 1 – Regulatory Authority of a Party)

- **Certificate-to-Certificate Recognition:** Certificate-to-certificate recognition is the fundamental principle of labour mobility in Canada. This means that any worker certified for an occupation by a regulatory authority of a jurisdiction shall, upon application, be certified for that occupation by all other jurisdictions that regulate that occupation. Parties to the CFTA further agree that the certification in the second jurisdiction shall occur without any requirement for any [material additional training, experience, examinations, or assessments \(See Box 7\)](#) as part of that certification procedure subject to any approved [legitimate objective\(s\) \(See Box 8\)](#). Governments recognize that due diligence is applied by regulatory authorities in other jurisdictions in Canada when certifying workers to practice their occupations (*Article 705.1*).
- **Different pathways to certification:** Governments agree that there can be different pathways, including [international education, training or experience](#), for a worker to acquire the necessary skills, knowledge and abilities required for certification in a regulated occupation in Canada. However, Chapter Seven specifies that a jurisdictional difference related to, for example, the type or length of education/training required for certification should not "in and of itself" be a justification to deny certification to a worker who is already certified in another Canadian jurisdiction (See [Labour Mobility "Exceptions"](#)).
- **Right to Regulate:** Chapter Seven recognizes the right of each government, be it federal, provincial or territorial, to adopt [occupational standards \(See page 18\)](#) and, thus, ensure the protection of the public at the level considered appropriate in the circumstances for their jurisdiction (*Article 706.1*).
- **Reconciliation:** To the extent possible and where practical, governments have agreed to take steps to reconcile differences in occupational standards, and to adopt occupational standards based on common interprovincial and/or international standards (*Articles 706.1 and 706.2*).
- **Transparency:** Governments have agreed to be transparent, when developing, changing, creating and eliminating occupational standards. They have also agreed that certification requirements should be transparent for the worker, including the posting of any "exceptions" to labour mobility approved by a Party (*Articles 706.3, 706.4, 706.5 and Article 707*).

Box 1 – Regulatory Authority of a Party (*Chapter 13: Definitions*)

"A regulatory authority of a Party means a department, ministry or similar agency of a governmental or non-governmental body that exercises authority delegated by law."

Chapter Seven Implementation: Roles and Responsibilities

Each government is responsible for implementing the Agreement within their areas of jurisdiction and for ensuring that those organizations and entities covered by the Agreement, including the Labour Mobility Chapter, take the necessary actions to comply with its obligations. Governments collaborate at various tables to ensure the promotion, implementation and ongoing adherence of Chapter Seven.

- **Committee on Internal Trade (CIT):** The CIT is composed of federal, provincial and territorial ministers responsible for internal trade. The role of the CIT is to supervise the implementation of the CFTA in its entirety; assist in the resolution of disputes arising out of the interpretation and application of the CFTA; and consider any other matter that may affect the operation of the Agreement (*Article 1100*).
- **Forum of Labour Market Ministers (FLMM):** The FLMM is composed of federal, provincial and territorial ministers responsible for labour market policies and programs. The FLMM is responsible for promoting the implementation of and ongoing adherence to Chapter Seven (Labour Mobility) of the CFTA (*Article 708.1(a)*).
- **Individual Governments:** As a Party to the CFTA, each federal, provincial and territorial government is responsible for implementing the CFTA within its area of jurisdiction which includes taking the necessary actions to comply with its obligations and also ensuring non-governmental bodies that exercise authority delegated by law in their jurisdiction comply.
- **Labour Mobility Coordinators:** Each federal, provincial and territorial government has appointed a Labour Mobility Coordinator. On behalf of their government, Labour Mobility Coordinators ensure the labour mobility obligations are implemented within their jurisdiction by working alongside all other Labour Mobility Coordinators across Canada to promote the implementation of Chapter Seven on behalf of the FLMM. Labour Mobility Coordinators assist governmental and non-governmental bodies in their jurisdiction to meet their obligations under the Chapter, and address questions and labour mobility concerns from certified workers. Labour Mobility Coordinators interact with regulatory authorities and officials across governments to support the recognition of certified workers across Canada and assist with the process for reconciliation of occupational standards.

For a list and contact information for federal, provincial, and territorial Labour Mobility Coordinators, please visit: www.workersmobility.ca.

- **Regulatory Authorities:** Implement the obligations of Chapter Seven on behalf of governments to ensure labour mobility in Canada.

Labour Mobility Obligations for Governments & Their Regulatory Authorities

Governments are responsible to ensure compliance with the obligations of Chapter Seven by their departments, ministries, municipalities and similar agencies of governments as well as any non-governmental bodies that exercise authority delegated by law such as regulatory authorities, professional corporations and associations. For many occupations, the authority to regulate or administer the occupation has been delegated by a government to a non-governmental body, such as a self-regulating “College”, a professional “*ordre*”, or a similar organization or association. Governments must ensure that regulatory authorities with delegated authorities comply with the obligations of Chapter Seven (*Article 702.1; Chapter 13: Definitions*).

For Chapter Seven, governments are also responsible to seek compliance by non-governmental bodies with or without authority delegated by law such as hospitals, health units, long-term care facilities, clinics, other health care/service organizations and authorities, school authorities, universities, colleges and other training institutions, trade unions and industry associations (*Article 702.2; Chapter 13: Definitions*).

Relationship to Other Agreements

In addition to signing the multilateral CFTA, some governments have entered into bilateral and multilateral agreements with other governments in Canada, which include labour mobility obligations.

A list of bilateral and multilateral trade agreements can be found on the [CFTA website](#).

In such cases, and where any discrepancy exists between the obligations of the CFTA and another labour mobility agreement, whichever agreement is more conducive to labour mobility in that particular case will be used. This only applies to the governments that have signed that agreement (*Article 703*).

Certification of Workers

Chapter Seven 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 (*Article 705.1*).

Who is eligible for labour mobility?

To be eligible for labour mobility under Chapter Seven a worker must be **currently certified** in a **regulated occupation** by a regulatory authority in Canada (*Article 705*). The obligations apply to **all** regulated occupations in Canada. For the purpose of this document a worker who is eligible for labour mobility is called a labour mobility applicant.

What is a regulated occupation?

The CFTA defines an occupation as “a set of jobs that, with some variation, are similar in their main tasks or duties or in the type of work performed” (*Chapter 13: Definitions*). A regulated occupation is a profession or skilled trade established in federal, provincial or territorial legislation (Acts and regulations) and which designates a regulatory authority to regulate the occupation. The regulatory authority may define what its workers can and cannot do as part of their work and/or the occupational standards in order to use a particular title and to ensure public protection. Although “regulated occupation” is not defined in the CFTA, some common criteria used by governments include that there is:

- Legislation (Acts, regulations, codes, rules, etc.) that establishes the occupation and defines the regulatory authority within the jurisdiction.
- A government or regulatory authority delegated by law that:
 - establishes occupational standards and/or certification requirements for workers in order to enter the practice of the occupation or use a particular occupational title (*Article 701.1 (b)*);
 - assesses the qualifications of a worker against the established occupational standards and/or certification requirements;
 - provides official recognition that the worker meets the established occupational standards and/or certification requirements;
 - may provide disciplinary oversight to its members; and,
 - may establish continuing competency/professional development requirements.

Variations may exist among governments regarding the regulation of occupations. For the purposes of labour mobility, it is important for regulatory authorities to understand where differences may exist.

- An occupation may not be regulated in every jurisdiction, resulting in differences among jurisdictions.
 - Certificate-to-certificate recognition under Chapter Seven does not apply when a worker is moving from a jurisdiction that regulates their occupation to a jurisdiction that does not. The same also holds true when a worker is moving from a jurisdiction that does not regulate their occupation to a jurisdiction that does.
 - If a government recognizes or offers voluntary/optional certification in an occupation (i.e. there is legislation governing the occupation and certification could be issued to a worker but is not mandatory) and a worker has obtained certification in that occupation, then that worker is eligible for labour mobility in accordance with Chapter Seven.
- Occupational nomenclature is not always consistent across Canada. Sometimes there are different titles used for the same occupation (profession or trade). For example, the power engineering occupation has different titles across Canada, e.g., power engineers, operating engineers or stationary engineer mechanics. Sometimes the same title is used for occupations across Canada but there is a significant difference in scope of practice from one jurisdiction to another. For example, [the dental hygienist occupation](#) has different scopes of practice across several jurisdictions.
- Scopes of practice ([See Box 2 - Scope of Practice](#)) may differ across Canada for the same occupation and, depending on the significance of that difference, may impact a worker's ability to be certified in another jurisdiction without any additional material requirements (See [Labour Mobility "Exceptions"](#)).
- How the occupation is regulated may vary from one jurisdiction to another. For example:
 - **Right to Title** – In some jurisdictions, legislation (Acts, regulations, codes, etc.) only grants the right to use a protected title. The term “protected title” means no one can use that title unless certified in that jurisdiction, although the legislation does not define the work performed.
 - **Right to Practice** – In some jurisdictions, legislation is used to define who can practice the occupation, how an occupation is practiced and/or which restricted activities can be performed. Right to practice may also include right to title.
 - **Regulatory Authority** – For each occupation a government regulates, the government will choose whether the occupation is regulated by:
 - Government – A government may choose to regulate an occupation itself. In this case certification for workers in an occupation is granted through a government ministry/department.

- A non-governmental body- A government may delegate the authority to regulate an occupation and certify workers on its behalf to a regulatory authority or independent “College” or “ordre”.

What is a certified worker?

Certified workers work in regulated occupations in the public and private sector. “Certified” means that workers have a certificate, license, registration or other form of official documentation, issued by a regulatory authority, which allows them to use a specific title and/or perform restricted activities in a regulated occupation in a jurisdiction. “Certified” does not include only having work experience in a given occupation in a jurisdiction where the occupation is not regulated or where certification is not required in order to practice that occupation (*Chapter 13: Definitions*). Certified workers may also be referred to as regulated, registered or licensed workers.

Some examples of certification include: registration, a practice permit, a license/certificate to practice, or a standardized interjurisdictional certificate.

For some regulated occupations, instead of issuing a certificate, license, permit or registration, a regulatory authority may keep a roster or central registry of certified workers that have met the occupational standards to practice an occupation. Workers who are listed on a registry or on a roster are covered by Labour Mobility provisions if this registry is used by the regulatory authority to recognize that workers are qualified to practice their occupation.

Chapter Seven does not apply to workers who are not yet certified or are in the process of becoming certified. Examples include workers with certain provisional licenses, apprentices, interns, articling or student categories.

For additional information, please contact your Labour Mobility Coordinator. Contact information for LMCs in each jurisdiction is available at www.workersmobility.ca.

Box 2 - Scope of Practice

For purposes of Chapter Seven, the scope of practice for an occupation refers to the range of activities that a qualified worker of an occupation may practice. It establishes the boundaries of an occupation, especially in relation to other occupations where similar activities may be performed. The scope of practice for an occupation may be established in legislation or through regulations/by-laws/policies adopted by a regulatory authority.

Options for Recognizing Certified Workers

When deciding how to provide labour mobility, regulatory authorities have three options. When a regulatory authority chooses an option, it should be applied to all labour mobility applicants in the regulated occupation. The three options are:

A. Issuing its own certification to labour mobility applicants

In many cases, legislation will require a worker to hold a certification from the jurisdiction in which they are practicing in order to legally work in the jurisdiction. Regulatory authorities can require a labour mobility applicant to complete an application form (*Article 705.1*). The application process should be transparent, focus on administrative requirements and not reassess an applicant's competencies or work experience. When the application process is complete, the regulatory authority will issue the applicant a new certification (i.e. Manitoba issues its own certification to a Saskatchewan certified worker before allowing the worker to work in Manitoba).

B. Recognition of another jurisdiction's certification

Under Chapter Seven a regulatory authority may allow a worker who is certified in another jurisdiction in the same occupation to come and work in its jurisdiction without having to apply for certification (*Article 705.6*) (e.g. a tradesperson working in British Columbia with an Ontario certification). Regulatory authorities that do this should ensure this approach is permitted by their governing legislation.

C. Recognition of common occupational standards

Chapter Seven encourages jurisdictions to work together to develop and recognize common occupational standards, to the extent possible and practical (*Articles 705.2 and 706.2*).

For example, jurisdictions have established the Red Seal Program that sets common standards for particular trades. Jurisdictions can choose to recognize the occupational standard as being equivalent or the Red Seal standard. Some jurisdictions may also choose to use the Red Seal exam as their certifying exam for their own workers.

This does not, however, permit regulatory authorities to refuse to certify a worker on the basis that they have a certification that is not based on the common interjurisdictional standard (*See Appendix A: Tradespersons*).

For more information about the above options to provide labour mobility, regulatory authorities should contact the Labour Mobility Coordinator in their jurisdiction. Contact information for Labour Mobility Coordinators in each jurisdiction is available at www.workersmobility.ca.

Box 3 – Categories of Workers (*See Appendix A*)

The following are some examples of the categories of workers that are considered eligible for labour mobility in accordance with the obligations of Chapter Seven

- Tradespersons with a valid provincial certificate of qualification (with or without a Red Seal endorsement)
- Internationally educated/trained workers who are currently certified in Canada
- Grandparented workers who are currently certified in Canada
- Workers who are listed on a roster of a regulatory authority in Canada as being certified to practice the occupation
- Workers whose certification is current but tied to an employer
- New graduates who are certified but have not yet practiced

Guiding Principles for Regulatory Authorities when Certifying Labour Mobility Applicants

Labour Mobility Coordinators have developed a guide for regulatory authorities when certifying labour mobility applicants. The [Best Practice Checklist for Certifying Labour Mobility Applicants](#) provides guidance and best practices to regulatory authorities on how to best align administrative practices for certification with the obligations of Chapter Seven.

The following provides information on non-permissible and permissible requirements for labour mobility applicants.

Non-Permissible requirements

The following provides an illustrative list of requirements that are not permissible under Chapter Seven:

- **Residency requirements** – A regulatory authority cannot require a labour mobility applicant to be a resident of its own jurisdiction in order to be certified (*Article 704.1(b)*).

Chapter Seven also addresses residency requirements in relation to employment eligibility ([See Box 4 – No Residency Requirements for Eligibility of Employment](#)).

- **Reassessment of an applicant's competencies, training, or abilities to practice** – A regulatory authority cannot request documents, training or testing for the purpose of reassessing/confirming an applicant's competencies or abilities to practice the worker's occupation as a condition of certification (*Article 705.1*), unless;
 - An applicant is currently certified, but has had a substantial break in practice (*Article 705.4(b)*) ([See Evidence of Good Standing](#))
 - A government has approved a labour mobility "exception" (*Article 707*) ([Labour Mobility "Exceptions"](#))
- **A more onerous application requirement** – Application requirements for labour mobility applicants may be the same/substantially similar to the application requirements of a regulatory authority's own workers but cannot be more onerous. The application requirements cannot create a disguised restriction to labour mobility (*Articles 705.3(h,i), 705.4(e,f) and 705.5(c)*) – ([See Box 5 – Disguised Restriction](#)).

Box 4 – No Residency Requirements for Eligibility of Employment

In addition to residency requirements being prohibited as a condition of certification, a government or non-governmental body (with or without authority delegated by law) cannot require a worker to reside in its own territory as a condition of **eligibility of employment**.

For example: in posting employment opportunities as an employer, governments cannot require that workers reside within the province or territory as a condition of eligibility for employment (*Articles 704.1(a) and 704.2*).

However, as a condition of employment, an organization may require that a worker reside within a certain distance from the regular place of work in order to meet a safety or response time requirement.

General Obligations for Application Requirements

All requirements must be:

- **Non-Discriminatory** – be the same as or substantially similar to, but no more onerous than what is imposed by a regulatory authority on workers within its own jurisdiction as part of the normal certification process (*Article 705.3(h)*).
- **Accessible** – be published on a regulatory authority’s website or a centralized website of the government (*Article 705.5(a)*).
- **Timely** – measures and processes must not result in unnecessary delays in recognizing the occupational certificates of workers from other jurisdictions. This includes processes for reviewing an application and certifying the worker. The objective is to ensure that workers already certified by a regulatory authority in another Canadian jurisdiction are certified and eligible for work as soon as possible. Where the existing processes do not allow for expeditious certification, these processes shall be changed (*Article 705.5(b)*).
- **Based on Cost Recovery** – regulatory authorities and governments may continue to charge fees and other costs for certification. For labour mobility applicants, they may not impose fees or other costs that are more burdensome than those imposed on workers within its own jurisdiction, except for actual cost differentials (*Article 705.5(c)*).
- **Transparent** – information should be publicly available and requirements cannot create a disguised restriction to labour mobility (*Articles 203, 705.5(a), 705.3(i) and 705.4(f)*) ([See Box 5 – Disguised Restriction](#)).

Box 5 - Disguised Restriction

The term “disguised restriction” is not defined in Chapter Seven. In previous trade consultations/disputes examples of perceived disguised restrictions could include unannounced restrictions or discrimination as well as restrictions that could be perceived as arbitrary or unjustified. In the context of labour mobility, a disguised restriction on labour mobility could involve a regulatory authority making arbitrary or unjustifiable distinctions when certifying a labour mobility applicant, where this could result in possible discrimination against a labour mobility applicant. For example, if an applicant certified in Province A in a regulated health occupation is given a certification in Province B in that same occupation that limits their ability to bill an insurance company independently for services provided to a patient/client, this could be considered a disguised restriction to labour mobility.

Permissible Requirements

If a regulatory authority deems it necessary, it may require a labour mobility applicant to perform/provide any of the following as a condition of certification, **provided they do not create a disguised restriction on labour mobility and these requirements are the same as, or substantially similar to, but no more onerous than, those imposed on workers within its own jurisdiction as part of the normal certification process** (*Article 705.3(h)(i)*):

- **Complete an Application and Pay an Application processing fee** - Regulatory authorities can require a labour mobility applicant to complete an application form. The application process should be transparent, focus on administrative requirements and not reassess an applicant’s competencies or work experiences.

Regulatory authorities can also require a labour mobility applicant to pay a [reasonable](#) application processing fee (*Articles 705.1, 705.3(a)*).

- **Proof of Current Certification in Another Jurisdiction in Canada** (to ensure the applicant is eligible for labour mobility) - Regulatory authorities can require a labour mobility applicant to provide proof that they are currently certified for the same occupation in another jurisdiction in Canada. If the applicant is not currently certified in another Canadian jurisdiction, the applicant is not eligible for labour mobility (*Article 705.3(g)*).

Proof of an applicant's current certification could be satisfied by a copy of the applicant's certification, license, and/or registration from the jurisdiction(s) in Canada where the applicant is currently certified.

When a labour mobility applicant is currently certified in more than one jurisdiction, a regulatory authority may request proof of current certification from each of those jurisdictions (*Article 705.3(g)*).

Once a regulatory authority has received proof of certification, the regulatory authority could verify that there are no limitations/restrictions or conditions on the applicants' certification.

If labour mobility applicants have limitations/restrictions or conditions on their certification a regulatory authority could undertake the following:

- a. Assess the equivalency of a practice limitation, restriction or condition that has been imposed on the applicant's certification from the applicants' current certifying jurisdiction to determine if any equivalent limitation, restriction or condition could be applied. This does not include reassessing the competency of the applicant. A regulatory authority must make reasonable effort to certify the applicant with an equivalent practice limitation, restriction or condition. If the regulatory authority does not have an existing provision or an equivalent practice limitation it can refuse to certify the applicant (*Article 705.4 (d)*).
 - b. Impose terms, conditions or restrictions on the applicant's certification or refuse to certify the applicant if the regulatory authority has knowledge of (or the applicant discloses information of) complaints, disciplinary or criminal proceedings in any other jurisdiction relating to the competency, conduct or character of the applicant for public protection (*Article 705.4 (a)*).
- **Evidence of Good Standing** – Regulatory authorities can require a labour mobility applicant to provide evidence that they are in good standing in any other Canadian jurisdiction(s) where they are currently certified. A regulatory authority may not ask a labour mobility applicant to provide evidence of good standing from a jurisdiction where the applicant was previously, but is no longer, certified.

Examples of what a regulatory authority might provide on behalf of an applicant's good standing in another jurisdiction may include (*Article 705.3(g)*):

- Fees have been paid
- Confirmation that the applicant has completed all continuing education requirements by the regulatory authority where they are currently certified ([See Box 6 – Post Certification Requirements](#))
- Confirmation that the applicant has met the practice hour requirement set by the regulatory authority where they are currently certified (if applicable)
- Confirmation there has been no substantial breaks in practice

A regulatory authority may impose additional training, experience, or assessments as a condition of certification if the worker has not practiced the occupation within a specified period of time, that is, has had a substantial break in practice. For example an applicant who has not practiced the occupation at all

within the last ten years. This should be consistent with requirements imposed on all certified workers of that regulatory authority. Please contact your Labour Mobility Coordinator for additional questions (Article 705.4(b)).

Box 6 – Post-Certification Requirements

Once labour mobility applicants have been certified for an occupation, their right to practice or their use of a reserved title is subject to the same obligations as the workers already certified for that occupation in the jurisdiction. Once certified, the labour mobility applicant will then be subject to, for instance, any post-certification requirements related to continuing education or practice and audits/quality assurance reviews. Post-certification requirements should apply to all of a regulatory authority's certified workers and cannot not be a disguised restriction to labour mobility.

- **Provide Evidence of Good Character** – Regulatory authorities can require a labour mobility applicant to provide evidence of good character that is not more onerous than that which a jurisdiction's own applicants are required to provide.

This could be satisfied through the following (Article 705.3(e)):

- Regulatory authorities can require a labour mobility applicant to provide a criminal background check, such as police and/or RCMP checks. This may include additions such as abuse registry checks along with local, national or international checks (Article 705.3(d)).
- A regulatory authority can require a labour mobility applicant to disclose complaints, disciplinary or criminal proceedings (including formal proceedings) involving or against the applicant. Information regarding complaints, or disciplinary or criminal proceedings, can be requested from any jurisdiction, including those outside of Canada.
- Based on this information, a regulatory authority may refuse to certify a worker or impose certain terms, conditions or restrictions on a worker as a result of complaints or disciplinary or criminal proceedings in another jurisdiction relating to the competency, conduct or character of a worker (Article 705.4(a)).

Certain factors should be considered to justify the denial of a labour mobility applicant based on the assessment of his/her good character. Such factors could include how recent the offence was or how relevant it is to a labour mobility applicant's conduct in his/her practice of the occupation.

- Other evidence to support good character may be demonstrated through, for example, reference checks or appearance before a committee.
- **Proof of Proficiency in English or French** – Regulatory authorities can require a labour mobility applicant to demonstrate proficiency in either English or French as a condition of certification (Article 705.4(c)).

This additional language proficiency requirement would only be applicable in a circumstance where a labour mobility applicant was not required to meet or has not met an equivalent requirement to demonstrate proficiency for the required language in a jurisdiction in Canada. The fact that the applicant has not completed the same exam with the same pass score as normally required within a jurisdiction would not be an acceptable reason for requiring an applicant to again demonstrate their language proficiency.

Each jurisdiction defines whether an applicant must be proficient in English and/or French according to the language of practice for the occupation in the jurisdiction. For further clarification, if a jurisdiction

defines the language of practice as English (e.g. the healthcare system operates in English), an applicant must demonstrate proficiency in English to ensure public protection.

Chapter Seven does not apply to the official language requirements for Québec, Nunavut and the Northwest Territories. Labour mobility applicants may be required to complete specific language proficiency requirements as a condition of certification in these jurisdictions (*Article 701.2(b)*).

- **Insurance/Malpractice Coverage** – Regulatory authorities can require a labour mobility applicant to obtain insurance, malpractice coverage or similar protection to that which would be required for a jurisdiction’s own workers (*Article 705.3(b)*).
- **Post a Bond** – Regulatory authorities can require a labour mobility applicant to post a bond similar to that which would be required for a jurisdiction’s own workers (*Article 705.3(c)*).
- **Demonstrate Local Knowledge** – Regulatory authorities can require labour mobility applicants to demonstrate their knowledge of any measures that are specific to a jurisdiction (*Article 705.3(f)*).

Once a regulatory authority confirms that the applicant is eligible for labour mobility, a regulatory authority can require the applicant to demonstrate local knowledge as a condition of certification.

The requirement must be focused on measures that relate to the practice of the occupation in the regulatory authority’s jurisdiction (for example legislation/regulations/codes and/or other differences for the work in the receiving jurisdiction compared to other jurisdictions in Canada). This requirement does not allow a regulatory authority to re-assess an applicant’s competency or work experience. The requirement must be **non-material** in nature (*See Box 7 - What is a non-material requirement?*).

The following are examples of non-material requirements that could be administered:

- A short test that reviews the scope of practice in the jurisdiction and the laws, acts, regulations, codes, etc. that apply to the practice of the occupation. Any test should be as accessible as possible (e.g. online).
- A declaration that the applicant has read, studied, and understands the laws, acts, regulations, codes, and/or scope of practice for the occupation in the jurisdiction.

For additional questions or concerns please contact your Labour Mobility Coordinator. Contact information for Labour Mobility Coordinators in each jurisdiction is available at www.workersmobility.ca.

Box 7 - What is a non-material requirement?

Some factors that are considered when determining whether an exam/test requirement is non-material:

- Type of exam/test (multiple choice vs. long or short answer);
- Time required to study for the exam/test (how many hours);
- Time required to complete the exam/test (minutes/hours);
- Accessibility: Where the exam/test must be completed (online or in a particular location);
- Accessibility: How often the exam/test is available to be completed (on demand or once a month etc.); and,
- Cost to the applicant.

Additional Information Requests Not Explicitly Mentioned in Chapter Seven

Information not explicitly mentioned in Chapter Seven must not be used to reassess an applicant's competencies or abilities to practice the occupation as a condition of certification (Article 705.1).

A regulatory authority should contact its Labour Mobility Coordinator regarding any other information it is considering requesting from labour mobility applicants to see if the request follows the principles of Chapter Seven.

Regulatory authorities sometimes request that applicants (including labour mobility applicants) provide other information that is not explicitly mentioned in Chapter Seven as part of the application process (e.g. resumes, job descriptions, self-assessments [often online], transcripts, employment history/verification of employment).

Keeping in mind that the purpose of Chapter Seven is to enable any worker certified for an occupation by a regulatory authority to be recognized as qualified by all other jurisdictions, regulatory authorities should carefully consider the purpose of requesting the information and whether it is necessary to certify a labour mobility applicant. As a guiding principle, this additional information should only be requested to facilitate the registration process. For more information: www.workersmobility.ca.

Occupational Standards & Notification

What are occupational standards?

An occupational standard refers to the skills, knowledge and abilities required for a worker to practice an occupation. Occupational standards are usually established by regulatory authorities or by governments through legislation. To be considered qualified to practice that occupation, an individual is assessed against these standards (*Chapter 13: Definitions*).

All regulatory authorities in Canada have the same mandate to set occupational standards to protect their public. This includes ensuring all workers certified by the regulatory authority are qualified and competent to practice the occupation.

Chapter Seven encourages reconciliation and transparency of occupational standards where governments have agreed to:

1. Take steps to reconcile differences in occupational standards, to the extent possible and where practical (*Article 706.1*);
2. Adopt occupational standards based on common interprovincial standards, to the extent possible and where practical (*Article 706.2*); and,
3. Establish transparent notification practices for changed/new standards among regulatory authorities in order to avoid the creation of new barriers to labour mobility (*Articles 706.3, 706.4 and 706.5*).

Differences in occupational standards across Canada have the potential to create barriers to labour mobility. While governments maintain their right to adopt occupational standards to ensure protection of the public at a level they consider appropriate, governments agree to examine their measures and to reduce and eliminate barriers to labour mobility to the extent possible and where practical. They also agree that commonality in occupational standards and collaboration in their development and maintenance can help to achieve labour mobility objectives.

Chapter Seven reinforces the inherent value in adopting common occupational standards and states that governments and their regulatory authorities may also wish to consider international standards when considering how to reconcile occupational standards within Canada.

What does this mean for regulatory authorities?

Regulatory authorities should work together with their regulatory counterparts across Canada to understand and take steps to reconcile differences in occupational standards, to the extent possible and where practical. To further streamline labour mobility regulatory authorities could consider coordinating or using similar certification categories and scopes of practice for an occupation.

Notification Requirements

Governments have agreed to introduce new occupational standards or changes to existing occupational standards “in a manner that is conducive to labour mobility”. Governments have also agreed to notify all other governments of its intent to introduce new standards or changes to existing standards and afford them an opportunity to comment on the development of those standards (*Articles 706.3, 706.4 and 706.5*).

Labour Mobility Coordinators have developed a standard notification form ([*See Appendix B: Notice of Proposed New or Revised Standard – Chapter Seven \(Labour Mobility\) of the Canadian Free Trade Agreement \(CFTA\)*](#)) for all governments to complete when:

- Introducing a new occupational standard that does not exist in another jurisdiction in Canada; or
- Introducing a new occupational standard that already exists in another jurisdiction in Canada; or
- Revising or removing an existing occupational standard.

Regulatory authorities are encouraged to share any changes to occupational standards or assessment processes (even if there is no impact on labour mobility) to facilitate transparency and information sharing.

The purpose of notification is to avoid the creation of any new barriers that might result from the introduction or modification of standards. Notifying other governments and regulatory authorities of any planned new standards and/or proposed changes to existing standards will contribute to greater transparency, reconciliation of standards and development of collaborative approaches.

What does this mean for regulatory authorities?

Regulatory authorities are encouraged to work together and to share information on existing and proposed occupational standards and certification processes. A common understanding of occupational standards and processes across jurisdictions will help to reduce barriers and ensure labour mobility for workers.

If the creation of a new or a change to existing occupational standard is being considered, regulatory authorities are encouraged to inform their Labour Mobility Coordinator. For example, any changes to the scope of practice, categories of certification/licensure, and/or entry to practice requirements, should be communicated to other regulatory authorities through their respective Labour Mobility Coordinator by completing and circulating the standard notification form.

Once informed of changes, the Labour Mobility Coordinator of the jurisdiction where the regulatory authority is considering introducing a new standard or revising an existing standard will notify the other jurisdictions and will give them an opportunity to comment to avoid the creation of any new barriers that might result from the introduction or modification of standards.

Therefore, notifications should be circulated as expeditiously as possible and preferably when proposed measures are still at a development stage to afford other governments (and their regulatory authorities) the opportunity and

sufficient time to comment on the development of those standards. When possible, a commenting period of one month should be provided for other governments to respond to a notification.

Each government has established its own internal process for completing the process for notification (including completing the notification form). Please contact your Labour Mobility Coordinator to learn about the process in your jurisdiction. Contact information for Labour Mobility Coordinators in each jurisdiction is available at www.workersmobility.ca.

Labour Mobility “Exceptions”

The fundamental purpose of Chapter Seven is to provide labour mobility through certificate-to-certificate recognition by regulatory authorities without any requirement for any material additional training, experience, examinations, or assessments (*Article 705.1*). There is a high level of consistency in occupational standards and scopes of practices in a majority of cases across Canada. However, Chapter Seven also recognizes that occupational standards and scopes of practice may evolve at different rates or can vary across Canada. When a significant difference in scope of practice exists, certified workers may lack specific critical skills, area of knowledge or ability to practice the full scope of practice in an occupation in a particular jurisdiction. In such cases where significant differences exist, Chapter Seven includes provisions for a government to approve an exception to labour mobility when justified by a legitimate objective (*Article 707*).

What is an “exception” to labour mobility?

An “exception” to labour mobility (i.e. certificate-to-certificate recognition) allows a regulatory authority to impose additional material requirements, such as education, training or experience, on labour mobility applicants from another jurisdiction in Canada as a condition of certification. The purpose of the material additional requirement is to close a recognized gap and significant in an applicant’s skills, knowledge or ability, thereby meeting a legitimate objective. For example, ensuring public interest is maintained ([See Box 8 - Legitimate objectives for labour mobility](#)) (*Article 707*).

Regulatory authorities cannot approve exceptions by themselves. Chapter Seven requires a government to approve an exception based on a legitimate objective and notify other jurisdictions of the exception before any material requirements are imposed on a labour mobility applicant by a regulatory authority as a condition of certification.

Box 8 - Legitimate objectives for labour mobility (Chapter 13)

“A legitimate objective for labour mobility means one or more of the following objectives are pursued within the territory of a Party:

- a) public security and safety;
- b) public order;
- c) protection of human, animal, or plant life or health;
- d) protection of the environment;
- e) consumer protection;
- f) protection of the health, safety, and well-being of workers;
- g) provision of adequate social and health services to all its geographic regions; and
- h) programs for disadvantaged groups”.

When a government approves an exception, Chapter Seven requires that ALL of the following conditions be met (Articles 707.1, 707.2 and 707.3):

1. Government(s) must identify the jurisdiction(s) to which the exception applies. Note: An exception applies to all workers certified in the occupation from the jurisdiction listed, unless otherwise noted.
2. Government(s) must identify a clear and significant difference which will result in an actual material deficiency in skill, area of knowledge, or ability of the occupation for which the worker seeks to be certified when moving between jurisdictions. This material deficiency could be due to a scope of practice (Article 707.2).

For example, if Province A identifies it has a broader scope of practice than Province B, Province A must clearly identify the differences, justifying why the difference is seen as significant. Province A must also provide evidence to justify that as a result of the significant difference in scope, certified workers from Province B would lack a specific critical skill, area or knowledge or ability to perform at the scope of practice in Province A. A Regulatory authority should make every effort possible to certify an applicant when an additional requirement, such as additional training, is successfully completed (Article 707.2 (a,b)).

3. Governments must demonstrate how, as a result of the significant difference, additional requirement(s) are necessary to achieve one or more legitimate objective(s) (Article 707.1(a)) ([See Box 8 - Legitimate objectives for labour mobility \(Chapter 13\)](#)). To do this, governments must provide:

- A written rationale justifying why the government considers the exception necessary and which identifies that the additional measure(s) is required to meet a legitimate objective(s).

As identified in Chapter Seven, a mere difference in certification requirements related to academic credentials, education, training, experience, examination, or assessment methods is not sufficient in itself to justify an exception. For example, for Province A to justify that an exception is required to protect the public because the province requires successful completion of a baccalaureate for entry to practice while Province B only requires successful completion of a diploma for entry to practice.

4. Governments must provide a written description of the additional material requirement(s) to close the recognized gap for certified workers for each jurisdiction impacted by the exception (Article 707.2). Governments must ensure that the additional requirement(s):

- is not more restrictive than necessary to achieve that legitimate objective; and
- does not create a disguised restriction to Labour Mobility (Article 707.1(b,c)).

5. The Government must indicate the duration it estimates the additional requirement(s) will be in place.

What is the process for a Regulatory Authority to request an exception from a government?

Chapter Seven does not prescribe a specific process to request an exception, but leaves it under the purview of each government. If a regulatory authority believes that an exception to labour mobility is justified to protect the Canadian public, it should contact their Labour Mobility Coordinator as soon as possible to discuss their government's approval process. Contact information for Labour Mobility Coordinators in each jurisdiction is available at www.workersmobility.ca.

Communication of a government approved exception

When a government determines that an additional material requirement is necessary before certification can be issued, the government must give written notice to the Forum of Labour Market Ministers (FLMM) regarding the exception (Article 707.3).

Additional requirements forwarded to the FLMM will be publicly posted on the labour mobility website (www.workersmobility.ca) (Article 707.4).

To ensure consistency, a standard form: [Notice of Measure to Achieve a Legitimate Objective under Chapter Seven of the CFTA](#) (Appendix B) has been approved by governments (*Article 707.3*).

Once an exception is posted, governments should review the exception regularly to confirm it is required, and to update information when necessary to ensure transparency for workers, regulatory authorities in other jurisdictions and other governments.

Dispute Resolution

Most labour mobility issues are resolved informally by Labour Mobility Coordinators. The first step to resolving a labour mobility complaint is to contact your Labour Mobility Coordinator. Certified workers should contact the Labour Mobility Coordinator in the jurisdiction where they are currently certified.

Labour Mobility Coordinators investigate concerns or complaints raised by certified workers, regulatory authorities or employers when a worker has not received labour mobility according to the obligations of Chapter Seven.

Labour Mobility Coordinators interact with their counterparts across Canada, government departments/ministries, regulatory authorities and certified workers, to resolve labour mobility issues.

If the issue cannot be resolved informally, a formal dispute resolution process is available under Chapter 10 (Dispute Resolution) of the CFTA. The provisions include options for government-to-government disputes (**Part A**) and person-to-government disputes (**Part B**), and outline the specific steps required to initiate dispute resolution. Dispute resolution is generally initiated only after other avenues for resolving the dispute informally have been exhausted. Part of this mechanism is to ensure that governments undertake to resolve disputes in a conciliatory, cooperative and harmonious manner.

For additional questions or concerns please contact your Labour Mobility Coordinator. Contact information for Labour Mobility Coordinators in each jurisdiction is available at www.workersmobility.ca.

Appendix A: Labour Mobility Applicants

Grandparented Workers - As occupational standards and entry requirements for certification evolve over time, many regulatory authorities take the approach of “grandparenting” workers who were certified according to a previous set of occupational standards or entry to practice requirements. Typically, such “grandparented” workers maintain their certification and ability to practice their occupation even though they were certified under a previous set of standards or requirements.

Chapter Seven makes no distinction for a worker who is currently certified by a regulatory authority, on the basis of having met a set of occupational standards or entry to practice requirements linked to a “grandparenting” clause previously enacted in that jurisdiction. If regulatory authorities have any specific concerns regarding the recognition of grandparented workers or intends to grandparent workers within its own jurisdiction, they should discuss the matter with their Labour Mobility Coordinator. Contact information for Labour Mobility Coordinators in each jurisdiction is available at: www.workersmobility.ca.

Internationally Trained Individuals - Many individuals are trained outside of Canada. By certifying an internationally trained individual, a Canadian regulatory authority is confirming that the individual meets the occupational standards in their jurisdiction and has the necessary skills, knowledge and abilities to practice that occupation in their jurisdiction. Once the worker is certified in one jurisdiction, according to the obligations of Chapter Seven, they must be recognized as eligible to work in the same occupation in another jurisdiction. Like all other labour mobility applicants, an internationally trained individual cannot be required to undergo any additional material requirements such as having qualifications reassessed, taking exams, doing additional training, gaining additional work experience or undergoing other assessments, unless a labour mobility exception to has been posted by a government.

If a labour mobility applicant was required to satisfy the language proficiency requirement when they applied for certification then they should not have to satisfy another language proficiency requirement in the same language when moving to another jurisdiction (See [Proof of Proficiency in English or French](#)).

Recent Graduates – This includes individuals who have recently completed their educational/training program and are certified with a regulatory authority in Canada but have not yet practiced the occupation. New graduates are often considered current in their competencies and skills given that they have recently met the certification requirements.

Tradespersons - Chapter Seven acknowledges governments’ continued commitment to the Red Seal Program as a well-established means of developing common interjurisdictional standards for trades (*Articles 705.2 and 706.2*).

Some tradespeople may have a trade certificate with a Red Seal endorsement, but this endorsement is not required to be eligible for labour mobility. Governments must recognize a valid provincial/territorial trade certificate (e.g. Certificate of Qualification) for trades that have the same scope of practice regardless of whether or not it has a Red Seal endorsement.

The labour mobility provisions do not cover workers who are not yet certified or are in the process of becoming certified, such as apprentices. Once apprentices are granted their trade certificate and become certified workers, then the Labour Mobility provisions under the CFTA apply. For more information about apprenticeship mobility please see the [Provincial-Territorial Apprenticeship Mobility Protocol](#).

Workers on a Roster/Registry of a Regulatory Authority – Sometimes regulatory authorities keep a roster or registry of certified workers that are qualified to practice the occupation in their jurisdiction. The roster acts as a form of certification and workers that are on the roster are considered to be eligible to be labour mobility applicants.

Workers with a Current Certification Tied to an Employer – In some cases workers are given a certification to practice the occupation as long as they are working for a particular employer. Workers applying for labour mobility with this type of certification should not be required to re-do the training requirements for the occupation.

Appendix B: Resources

To find additional resources referenced throughout the Guidelines please visit the following links:

- Canadian Free Trade Agreement (CFTA) - www.cfta-alec.ca
- www.workersmobility.ca
 - [*Best Practice Checklist for Certifying Labour Mobility Applicants*](#)
 - [*Notice of Proposed New or Revised Standard – Chapter 7 \(Labour Mobility\) of the Canadian Free Trade Agreement \(CFTA\)*](#)
 - [*Notice Of Measure To Achieve A Legitimate Objective Under Chapter Seven Of The CFTA*](#)
 - [*Brochure for certified workers*](#)
 - [*Video for certified workers*](#)
- Forum of Labour Market Ministers (FLMM) - www.flmm-fmmt.ca/