



## CORPORATE IMMIGRATION LAW FIRM

As Parliament enters the summer break, new changes to Canada's immigration programs have taken centre stage. This bulletin outlines these changes and their significance.

### Changes to the Federal Skilled Worker Program (FSW)

A number of significant changes have been made to the FSW program, one of the primary vehicles for obtaining permanent residence in Canada.

The first change is that all applicants will need to provide the results of an approved English (or French) test taken within 12 months of the FSW application date. Previously an applicant could provide alternative evidence of their abilities in Canada's official languages. However, the government has now instituted a "bright line" rule – if test results are not provided at the time of application then the application will not be accepted for processing. While we often advised non-native speakers to write a government-approved test, there had been some discretion. Moreover, native English/French speakers rarely wrote the exam. Now all – both native and non-native speakers of English and/or French – will have to write an English or French language test before applying for permanent residence in the FSW class. At present, there are only two approved English tests, the IELTS and CELPIP. Clients may have difficulties finding testing centers in close proximity and/or test dates at convenient times for these exams, resulting in delays in filing their permanent resident applications and making work permit extension applications more likely.

The second change, while perhaps affecting fewer of our clients, is still worthy of note. FSW applications will now only be accepted from applicants who (1) already have an offer of full-time employment in Canada (conditional on the applicant receiving a permanent residence visa) or (2) who have at least one year of full-time, continuous employment in one of 29 "in-demand" occupations. That list, which can change at any time, is currently found at: <http://www.cic.gc.ca/english/immigrate/skilled/apply-who-instructions.asp>

Only 20,000 applications within the next 12 months will be accepted for processing based on the in-demand occupational list. Individual occupations on the list are also capped at 1000 applicants per occupation. Given the restricted nature of the in-demand list, foreign workers will now, more than ever, need a qualifying job offer from a Canadian employer to obtain permanent residence in Canada.

Finally, the application process for the FSW program appears to have changed. Applicants seemingly now must now submit a complete application at the outset (as opposed to submitting the application in two stages over a period of 2-6 months). We are awaiting clarification on this point. However, if it proves true that all materials must be submitted at the outset, then the need to obtain items such as police certificates from foreign countries may, as with the requirement for a language test result, cause delays in filing permanent resident applications and make work permit extensions a necessity.

### Proposed Changes to the Immigrant Investor Program

The federal government has also temporarily halted its Immigrant Investor Program until proposed changes can take effect. The Immigrant Investor Program allows individuals of higher net worth to become permanent residents of Canada on condition that they make a significant financial investment in Canada. The current thresholds of the now-suspended program are a net worth of \$800,000.00 CAD and an investment of \$400,000.00 CAD. If the proposed changes are accepted, immigrant investors will be required to meet thresholds that have increased twofold, i.e., a net worth of \$1,600,000.00 and an investment of \$800,000.00.

### Continuation of Pilot Work Permit Program for Children of Foreign Workers in Ontario and Alberta

Dependent children of Temporary Foreign Workers in Ontario and Alberta have been able to apply for open work permits without securing a Labour Market Opinion from Human Resources and Skills Development Canada since July 1, 2009. These pilot programs, scheduled to end June 30, 2010, have been extended to July 30, 2012, making Ontario and Alberta more attractive destinations for for international workers with in-demand skills. Below are a few important notes about the new work permits for dependent children:

- An eligible dependent child must be at least 14 years of age in Ontario (though Ontario employment standards legislation does contain exceptions to the minimum age requirement of 14 years) and 18-22 years of age in Alberta;
- Their parent must be authorized to work in Canada for six months or longer on a valid, job-specific work permit in an occupation found within skill levels 0, A or B of the National Occupation Classification system;
- A dependent child's open work permit will be valid for the same period as their parent's work permit;
- The permit will be limited to employment in the province in which it was issued; and
- These work permit applications may be made at an overseas mission, port-of-entry or in-land.

Overall, the Ontario and Alberta Pilot Programs have been appreciated by our clients. They have proven helpful in aiding family members integrate into their communities and given foreign worker parents peace of mind that their children will be able to adjust to life in Canada.

### End of the IT Workers Program

Since May 1997 foreign workers fitting seven specialized IT occupations were able to obtain work permits without the need for a Labour Market

Opinion (a "LMO") from Service Canada. Effective October 1, 2010, that ability ends (except for employers wanting to hire for positions in Quebec, where the IT Workers Program will remain in place for a limited time after September 30, 2010). Thereafter, employers of prospective IT workers will be required to first obtain a LMO before the worker can apply for a work permit. In September 2010, Citizenship and Immigration Canada intends to issue transitional instructions for officers processing and/or issuing work permits to IT software specialists. In the interim, the program still operates and may be used to obtain new work permits (and extensions of work permits with the same employer) as long as the application is filed before October 1, 2010.

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