



CORPORATE IMMIGRATION
LAW FIRM

MORE ON HIRING FOREIGN STUDENTS

In a previous edition we spoke briefly about new initiatives by the Government of Canada to facilitate the employment in Canada, on a permanent basis, of foreign students who have graduated from Canadian universities and colleges. Among those initiatives are included the ability of foreign students to work on campus without a work permit; new off campus work permits with more facilitative provisions; one or two year work permits for students who have graduated from Canadian Universities and Colleges; a more facilitative approach to foreign students who wish to apply for permanent resident status; and most recently, the implementation of new relaxed guidelines allowing employers to apply for labour market opinions to facilitate the continued employment of foreign students at the end of their post graduation work permit periods.

Situations Of High Demand/Shortage Both Currently And In The Long-Term

The government recognizes that Canadian employers who have invested significant time, money and effort in hiring and training foreign students on post graduation work permits, in many cases want to be able to keep these new employees on a permanent basis. Often times, they are involved in important projects and their premature departure from the business, as a result of the impending expiry of their post graduate work permit, can harm the Canadian employer. The government has also recognized that there are broad economic labour market considerations relevant to this issue and that occupations in professional, managerial and technical/trade areas are generally in situations of high demand/shortage both currently and in the long-term.

More Lenient Approach With Respect To Advertising And Recruitment; And Wages

In assessing an application by a Canadian employer for a labour market opinion for the continued employment of an individual coming to the end of their post graduation work permit, Service Canada officials have been directed to apply a more lenient approach with respect to two issues, advertising and recruitment; and wages. Current guidelines outlined in the Foreign Worker Programs general directives provide for employers to be exempt from advertising and recruitment efforts for Canadians in some circumstances. The new directive/guidelines provide for the exemption from the requirements to advertise and demonstrate recruitment efforts in the situation involving a foreign

graduate at the end of his/her post graduation work permit. With respect to wages, Service Canada recognizes that individuals in these circumstances entering professional, managerial and technical/trade occupations will usually be at an entry level and that in general this means a lower level of responsibility and consequently a lower salary than the average for the occupation as a whole. Generally speaking, an LMO would only be approved if the wages offered met the average for the occupation, however, under these new guidelines, in the circumstances as indicated above, Service Canada officials are encouraged to recognize that lower salaries than the average for the occupation are likely.

Adequate Time For The Processing Applications Prior To The Expiry Of Any Extended Work Permit

Since the general direction of the government's policy is to facilitate the hiring of skilled foreign nationals and to facilitate their applications for permanent residence if they wish to apply, Service Canada has recommended their officials grant two year labour market opinions to foreign graduates at the end of their post graduation work permits. Given that these individuals are already in Canada and are thus eligible to apply for permanent residence through a Canadian Consulate in the United States, and given that processing times in most cases are two years, it is recommended that those who intend to apply for permanent residence **and who otherwise qualify**, have their applications prepared and/or filed prior to the end of their post graduation work permits and prior to obtaining a foreign graduate labour market opinion. This will ensure that there is adequate time for the processing of their application prior to the expiry of any extended work permit they may be issued.

Help Wanted?

CILF would be pleased to assist Canadian employers and foreign graduates in developing an effective and timely immigration strategy in this regard.

To discuss how these new requirements could impact your business, please contact either:



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