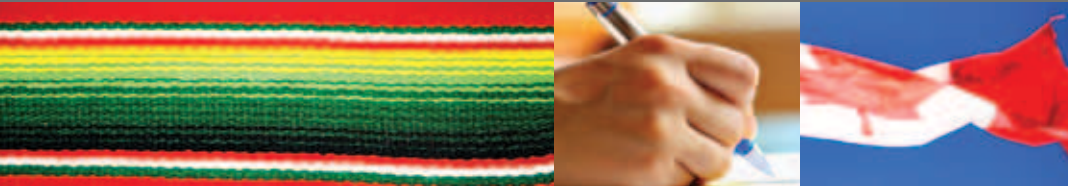




International Arrivals

Flight	From	Time	Remarks	Flight
K0032	LONDON	09:20	LANDED	F245
T8402	BERLIN	09:35	LANDED	P458
H0254	NEW YORK	09:40	ON TIME	K412
M5210	PRAGUE	09:55	DELAYED	A874
K5214	BEIJING	10:05	ON TIME	A578
Z5421	SYDNEY	10:15	ON TIME	O787
C0012	PARIS	10:30	ON TIME	W254
M2100	SAN DIEGO	10:35	ON TIME	Y8745



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Business Immigration

BD&P partner Rita Tripathy, assists clients, both individual and corporate, in a complete range of immigration issues, including bringing foreign nationals to work in Canada and transferring individuals to the United States. Immigration laws, regulations and procedures undergo regular changes and Rita can help clients' navigate the system and find solutions that best suit their needs.

Rita can assist clients in a variety of employment matters including obtaining work permits for Canada, and transferring workers to the U.S. and elsewhere. She is able to draw on the skills and experience of practitioners in other practice areas within the firm including those of our Employment & Labour and Tax teams. Rita has working relationships with experienced U.S. Immigration counsel should the need arise.

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- Obtaining Labour market opinions or opinions for exemptions of Labour Market Opinions
- Obtaining work permits in Canada, the U.S. and other jurisdictions
- Obtaining U.S. non-immigrant visas
- Securing Canadian temporary resident visas and study permits
- Extending Canadian and U.S. visa permits
- Acquiring and maintaining Canadian permanent residence status
 - Preparing Alberta Immigrant Nominee Program, Canadian Experience Class and Federal Skilled Worker Class applications
- Acquiring and maintaining U.S. permanent residence status
- Facilitating intra-company cross-border transfers
- Obtaining Canadian citizenship and Certificates of Citizenship
- Sponsorship of family members

Recent Amendments to the Temporary Foreign Worker Program

by Fiana Bakshan, Student-at-Law

The Government of Canada has recently enacted amendments (the “*Regulations*”) to the Temporary Foreign Worker Program (“TFWP”).¹ These changes were driven by a rise in the number of temporary foreign workers entering Canada as well as the need to further protect the rights of these workers. The amendments will officially come into effect April 1, 2011. A brief synopsis of the key amendments follows:

1. **Four Year Limit on Work Permits:** Pursuant to the amendments, foreign workers will only be able to hold a work permit for a cumulative duration of four years. The foreign national will be required to wait a minimum of four years prior to applying for a subsequent work permit. There are certain exceptions to this limitation including foreign nationals who work pursuant to international agreements, such as NAFTA, those whose work creates significant social, cultural or economic benefits for Canadians and foreign nationals working in Canada while on a study permit. These amendments signal that the TFWP is meant to address temporary labour shortages and that, where appropriate, programs for permanent residence should be used. This ban does not apply to work performed prior to April 1, 2011. Therefore, foreign workers already in Canada can remain in Canada for a further four years after April 1, 2011 (assuming a new Labour Market Opinion is issued and the work permit is renewed).
2. **Non-Compliant Employers:** Employers who are found to be in violation for failing to comply with a prior Labour Market Opinion, including failing to comply with the terms of a job offer, will be subject to a two year ban of hiring any foreign workers. The determination will be made at the time an application for a Labour Market Opinion is submitted. At this time, the employer will have an opportunity to demonstrate to the officer that it has observed the differences in the wages, working conditions or the occupation
- of the temporary foreign worker, and that it has taken remedial measures, where possible, to account for the differences. The names of non-compliant employers will be published on Citizenship and Immigration Canada’s website so as to inform foreign nationals of employers who are not eligible to participate in the TFWP. This ban will apply to new hires, relocations, as well as those workers already in Canada and seeking extensions of their work permits.
3. **Assessment of the Genuineness of the Job Offer:** Prior to approving an application for a Labour Market Opinion, there are a number of factors to be used in assessing the genuineness of a job offer to a foreign worker. These factors are set out in the *Regulations*. No such guidelines previously existed. These factors include such considerations as whether the employer or recruiter have abided by provincial employment laws, the nature of the employer’s business, whether the offer is consistent with the employer’s needs and the employer’s ability to meet the terms set out in the job offer.
4. **Live-in Caregivers:** See the article on changes to this program on page 9 of this Newsletter.
5. **Validity of Labour Market Opinion:** All Labour Market Opinions will be required by law to have an expiration date. Temporary foreign workers must apply for visas or work permits prior to the date of expiration. This follows an announcement in May 2009 by Human Resources and Development Canada that Labour Market Opinions will only be issued for a period of six months.

Footnotes

¹ *Regulations Amending the Immigration and Refugee Protection Regulations* S.O.R./2010-172, ss.1-9.

Inadmissibility On The Grounds Of Criminality

by Fiana Bakshan, Student-at-Law

The *Immigration and Refugee Protection Act*¹ aims to protect Canadian society from permanent residents or foreign nationals who have previously engaged in criminal activity. When applying for immigration status in Canada, whether temporary or permanent, the applicant will be asked to provide details of past criminal offences. Permanent residence applicants will be required to provide police certificates from previous places of residence. A presumption exists that those who have engaged in past criminal activity will engage in such activity in the future, and thus pose a danger to Canadian society.

The *Immigration and Refugee Protection Act* determines inadmissibility of the applicant based on the seriousness of the past criminal offences. It will be more difficult for the applicant to successfully obtain status in Canada if the offence committed is considered to be a serious one. In general, temporary residents and applicants for permanent residency will be inadmissible if the applicant²:

1. was convicted of an offence in Canada;
2. was convicted of an offence outside of Canada that is considered a crime in Canada; and/or
3. committed an act outside Canada that is considered a crime under the laws of the country where it occurred and would be punishable under Canadian law.

The final decision of whether a foreign national is inadmissible lies with the immigration officer. Broad discretion is granted to the officer in determining whether to allow the individual to enter Canada on a temporary basis³.

Grounds for Inadmissibility

War Crimes and Crimes Against Humanity

Offences in which a person has committed war crimes or crimes against humanity, or where an applicant is a senior official in a government that has committed such crimes are considered to be the most serious. It is not necessary for the applicant to have actually been convicted of these offences to be determined inadmissible. In order to refuse the application, an immigration official is only required to have “reasonable grounds to believe” that the person committed such an offence. This applies to both foreign nationals and individuals who have been granted permanent residence status in Canada. An individual found inadmissible on these grounds is permanently banned from entering Canada and cannot apply for rehabilitation.

Serious Criminality

An Individual is inadmissible if he/she has been convicted in Canada, or if there are reasonable grounds to believe that he/she was convicted outside Canada, of offences that are punishable in Canada by a maximum of ten or more years’ imprisonment. The commission of an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an indictable offence will also render the applicant inadmissible. It should be noted that the commission of a serious offence

in Canada cannot provide the basis for a finding of inadmissibility; there must be an actual conviction with respect to any criminal activity committed within Canada.

Offences Committed by Foreign Nationals

Foreign nationals who have been convicted of an offence punishable in Canada by way of indictment, or have been convicted for any two offences not arising out of a single occurrence are also deemed inadmissible. This applies to convictions both in and outside of Canada. As is the case with the more serious offences described above, if the offence occurred in Canada, there must be an actual conviction in Canada for the person to be found inadmissible. An act committed by the applicant outside Canada that is an offence in the place it was committed and would constitute an indictable offence in Canada would also deem a person inadmissible under this category.

Persons Engaged in Organized Criminal Activity

Membership in an organization that is reasonably believed to have engaged in organized crime will render an applicant inadmissible. There must be proof of both membership in the organization and a pattern of criminal activity that is planned and organized by persons acting in concert. An application may be made to the Minister of Immigration to grant admission to these individuals who would otherwise be inadmissible. The application may be granted if the Minister is satisfied that the individual’s presence in Canada would not be detrimental to the national interest. If such an application is made, the Minister is obligated to give it consideration.

Equivalency

The *Immigration and Refugee Protection Act*⁴ requires an immigration officer to determine whether an offence committed outside Canada would constitute an offence under Canadian law. The basic principle of equivalency is that the offence must be considered in the Canadian context and found to be an offence pursuant to Canadian law. In determining equivalency, an immigration official will consider the “essential elements” of the offences. Only if the essential elements are identical will equivalency be found. It has been suggested that where a foreign offence is broader, it may be possible to introduce evidence to suggest that the actual offence for which the person is convicted was equivalent to an offence committed in Canada. Defences of the offence must be considered for the purposes of determining equivalency. For example, where a defence is available in Canada, the absence of such a defence in the foreign jurisdiction might defeat equivalency.

Exceptions

Pardons

If a pardon has been granted to an individual in Canada under the *Criminal Records Act*⁵ the individual is no longer inadmissible. The legislation is not as clear with respect to pardons granted outside Canada. The applicant will be required to provide the immigration officer with complete details of charges, convictions, court dispositions, pardons, photocopies of applicable sections of foreign law(s), and court proceedings to allow the officer to determine whether that person is inadmissible.

Rehabilitation

Inadmissible persons, other than those inadmissible for war crimes and crimes against humanity, may submit an *Application for Criminal Rehabilitation*. There is a duty on the part of the processing officer to inform the applicant of a possibility of applying for rehabilitation. Individuals who must come to Canada but are not able to apply for rehabilitation because the prescribed period (see following section)

When applying for immigration status in Canada, whether temporary or permanent, the applicant will be asked to provide details of past criminal offences. Permanent residence applicants will be required to provide police certificates from previous places of residence.

has not passed or are not eligible to apply for a pardon in Canada may ask an officer for special permission to enter or remain in Canada. An *Application for Criminal Rehabilitation* should still be submitted, but the applicant must check the box that states, “For Information Only”

(i) Convictions or Offences Committed Outside Canada

Individuals who have been convicted of or committed offences outside Canada may be deemed rehabilitated after a prescribed amount of time, or may apply for rehabilitation. The table below provides a summary of offences committed outside Canada and the correlating rehabilitation periods⁶.

In establishing rehabilitation, the applicant may have to demonstrate the following:

- A stable lifestyle
- Community ties
- Social and vocational skills
- That the criminal offence was an isolated event

(ii) Convictions or Offences Committed Within Canada

Individuals convicted of a criminal offence in Canada may be required to seek a pardon from the National Parole Board of Canada before they can be admissible to Canada. An application for a pardon can be obtained from the Board. To be considered for a pardon, a prescribed period of time must pass after the completion of the imposed sentence. The usual waiting period for offences if prosecuted by way of indictment is five years, and for offences punishable on summary conviction is three years.

Once a pardon is obtained, a copy of it should be sent to the responsible Canadian visa office or Citizenship and Immigration Center. It is important for individuals pardoned to carry a copy of the pardon when travelling to Canada.

Those who have committed offences within Canada may, depending on the offence, be eligible for deemed rehabilitation. Generally, the prescribed period for deemed rehabilitation is at least five years after the imposed sentences were served or to be served. Individuals who have convictions for two or more indictable offences in Canada are not eligible for deemed rehabilitation and therefore, will be required to apply for a pardon.

(iii) Convictions or Offences Committed Both In and Outside Canada

Applicants that have convictions both in Canada and convictions or offences outside Canada will require an approval of rehabilitation and a pardon to overcome inadmissibility.

The application for rehabilitation cannot be submitted until a pardon is first obtained. The exception is where there is only one summary conviction in Canada. In these circumstances, the applicant can apply for rehabilitation for any convictions or offences outside Canada if they are able to provide proof that an application for a pardon has also been submitted to the National Parole Board.

(iii) Timing for Rehabilitation Applications

Applications can take over one year to process.

Footnotes

¹ S.C. 2001, c.27 (“IRPA”).
² Citizenship and Immigration Canada, *Rehabilitation for Persons who are Inadmissible to Canada because of Past Criminal Activity* <<http://www.cic.gc.ca/english/information/applications/rehabil.asp>>
³ IRPA, s.24(1).
⁴ IRPA ss. 36(1)(b) and (c) and 36(2)(b) and (c).
⁵ R.S.C. 1985, c. C-47
⁶ This table has been modified from the Citizenship and Immigration Canada website <<http://www.cic.gc.ca/english/information/applications/guides/5312E3.asp>>

Conviction/Offence	Rehabilitation Period	
	Deemed Rehabilitation	When Eligible to Apply for Rehabilitation
Conviction of an offence that, if committed in Canada, would be an indictable offence punishable by a maximum term of imprisonment of less than 10 years	At least ten years after completion of the imposed sentence	Five years after completion of the imposed sentence
Commission of an offence that, if committed in Canada, would be an indictable offence punishable by a maximum of term of imprisonment of less than 10 years	At least 10 years after the commission of the offence	Five years after commission of the offence
Conviction or commission of an offence, that, if committed in Canada, would be punishable by a maximum term of imprisonment of ten years or more	No deemed rehabilitation	Five years from the completion of the sentence or commission of the offence
Conviction of two or more offences, that if committed in Canada, would constitute summary conviction offences	At least five years after the sentences imposed were served or were to be served	Not applicable

Information for Mexican Business

by Brittany Earl, Summer Research Student

New Visa Requirement

On July 14, 2009 the Canadian Government imposed a visa requirement on all Mexican nationals travelling to Canada. Though efforts have been made to ease the process for some business travellers, the visa requirement remains in place for business and pleasure travellers alike.

Prior to July 2009 visas were only required for Mexicans looking to study or work in Canada for more than 60 days. The new 'Temporary Resident Visa' is now required for business and private visitors, as well as those studying for less than 60 days and even for transit through Canada. To no one's surprise, this initially caused delays in visa processing.

Processing Concerns

In response to visa processing concerns the Canadian Government has contracted with third-party visa service providers to facilitate the opening of three new Visa Application Centres (VACs). These centers are located in Mexico City, Monterrey and Guadalajara and are capable of providing all necessary processing services including application tracking after submission. The Visa Application Centre website is a wealth of information and provides links to all necessary forms and checklists for all types of permit applications.¹ The best way to streamline the visa acquisition process is to ensure that all necessary documentation is provided and to plan ample time for processing.

Required Documentation

The documentation requirements for business travellers are slightly different than for those travelling for other purposes. All applicants must submit in the required forms and applications, two photographs,

their original passports, proof of income and assets in Mexico as well as a receipt for fees and a pre-paid Airway Bill from DHL for the return of their documents after processing. Additionally, business travellers applying for a Temporary Residence Visa must submit a letter of invitation from the Canadian company with whom business will be conducted detailing the business to be undertaken, its duration and identifying responsible Canadian parties. Further, the Mexican business sending the employee must provide a letter identifying the purpose for the travel and confirming approval for it.

Given the extensive documentation requirements it is recommended that all applications be submitted 30 days before the intended travel date. Although the VACs website indicates that the average processing time for Temporary Residence Visas is four days, the information provided by the Canadian Embassy in Mexico places that estimate at 10 to 15 working days.² It is unclear whether the longer estimate includes the additional five days it may take for you're the applicant's documents to be returned to the applicant. Both of these estimates assume receipt of complete documentation in the first instance and no delay in return shipping.

Expedited Program

In April of 2010 the Canadian Government announced the new Business Express Program aimed at accelerating visa applications for some Mexican business people. Modeled after a similar program introduced by India in 2008, the new measures will allow certain businesses to obtain a visa in as little as 24 hours.



Travellers

Family Stream of Alberta Immigrant Nominee Program on Hold

by Fiana Bakshan, Student-at-Law

Alberta Immigration has put two application streams on hold. As of August 23, 2010 the Alberta Immigration Nominee Program is no longer accepting new applications under the Family Stream or the U.S. Visa Holder Categories. The Family Stream is designed for foreign nationals who have eligible relatives residing in Alberta. The applicants must be between the ages of 21 and 45 with post-secondary education, work experience and sufficient funds to demonstrate the ability to establish themselves in Canada. The U.S. Visa Holder Category allows workers currently in the United States on temporary work visas to apply for a Canadian work permit through an expedited application process. The applicant must have at least one year of work experience in the United States in an occupation that is currently in demand in Alberta. A job offer is not required for these two programs to qualify. Applications that are post marked on or prior to August 23, 2010 will continue to be processed. This change is temporary until further notice.

The federal government stipulates the number of people Alberta can nominate each year under this Immigration Nominee Program. For 2010, Alberta will be able to nominate 5,000 individuals. Alberta Immigration explained that the focus for the 5,000 nominations will be on those individuals who work in permanent jobs and those who have offers in occupations that are currently in demand in Alberta¹.

Applications under the following categories will continue to be accepted:

- Skilled workers
- Semi-skilled workers in certain occupations
- International students
- Compulsory trades
- Engineering occupations
- Self-employed farmers

The program boasts of various advantages including less paper work, faster processing times and a dedicated service responsive to the needs of participants. While the program is clearly intended to make business travel to Canada easier, its advantages are only available to those businesses that have been invited.

In order to receive such an invitation Mexican businesses must be identified by either the Embassy of Canada in Mexico City or Export Development Canada as possessing the following traits:

- key connections to Canada,
- proven need for frequent travel to Canada,
- a good immigration track record, including:
 - employees who are admissible
 - employees who have previously travelled in Canada and adhered to Canada's immigration laws

It is anticipated that further streamlining will occur to the process for most other businesses as well as visitors for pleasure and we will report in future Business Immigration newsletters as to more developments in this regard.

Footnotes

¹ <http://www.cicmex.com.mx/en-MX/selfservice/login>

² <http://www.canadainternational.gc.ca/mexico-mexique/visas/times-delais.aspx?lang=eng>

Footnotes

¹ Government of Alberta News Release, August 23, 2010 <<http://alberta.ca/acn/201008/28999A06518CD-06C6-D39F-9FAD5D9909BE595A.html>>

Quick

Tip:

Changes to Temporary Foreign Worker Program Regarding IT Specialists

by Peter Doelman, Student-at-Law

Effective October 1, 2010, a Canadian employer outside Québec will once again require a positive Labour Market Opinion in order to hire a foreign worker as an information technology (IT) specialist. This requirement will come into effect in Québec soon after October 1, 2010. Human Resources and Skills Development Canada together with Service Canada issue Labour Market Opinions (LMOs) indicating whether it believes a foreign worker is needed to fill a Canadian employer's position. Between May 1997 and October 1, 2010, employers have been able to hire foreign workers into select IT occupations (detailed below) without securing a LMO, given the shortage in the IT sector. The reversion back to a process requiring LMOs after October 1, 2010 reflects the current and predicted labour market conditions in Canada's IT industry.

Prior to October 1, 2010, employers hiring temporary foreign workers into the following IT occupations were exempt from requiring LMOs but as of October 1, 2010 once again require them:

- Senior Animation Effects Editor
- Embedded Systems Software Designer
- Management Information Systems Software Designer
- Multimedia Software Developer
- Software Developer—Services
- Software Products Developer
- Telecommunications Software Designer

New Language Testing Requirement for Permanent Resident Applications

by Justin Jensen, Student-at-Law

On June 26, 2010, Jason Kenny, the Minister of Citizenship, Immigration and Multiculturalism, announced changes to the permanent resident application requirements for Federal Skilled Worker and Canadian Experience Class applicants.

Why have the Changes been made?

These changes have been made to correct perceived subjectivities and the potential for abuse of the former application and proof of language proficiency requirements. Government officials have determined that the ability to speak one of Canada's official languages is one of the most important factors that lead to the economic success of immigrants in Canada. Because of this, efforts are being made to help ensure the success of all new immigrants to Canada. This is also an attempt to bring Canadian language requirements and testing inline with the practices of other countries that compete for the same skilled immigrant market (Australia, New Zealand, UK).

What is the old standard?

The new requirements do not increase the level of language proficiency required to qualify for permanent residency in Canada. The process for proving proficiency, however, has changed. Formerly, applicants had the option of proving their language abilities through a language test or by making a written submission. The written submission option was intended to apply to applicants who are native French or English speakers. It is suspected that this option was frequently abused by non-native French or English speaking applicants who would submit the writing sample of some other person, or one they obtained from the internet.

Highlights of the new standard

- All Applicants are required to provide proof of language proficiency with their application.
- Language proficiency is determined by taking a standardized language proficiency test from one of three designated agencies. The three designated agencies are:
 - IELTS: International English Training Testing System
 - CELPIP: Canadian English Language Proficiency Index Program
 - TEF: Test d'évaluation de français
- The applicant must arrange to participate in, and pay for, the testing prior to submitting his/her application for permanent residency.
- Test results must be included with the application for permanent residency. If the results are not included in the application, the application will not be processed.
- All applicants are evaluated against the same standards, no matter what their language of origin, nationality or ethnicity.
- Test results will be used by Citizenship and Immigration Canada as conclusive proof of the language proficiency of the applicant.
- Test results remain valid for one year

These changes appear to be positive in that immigration officers are no longer acting as language assessors and will therefore be more able to service other areas of the application process. The independent test is intended to be a fair, transparent, objective, consistent and accurate way to evaluate an applicant's language skills. The downside to these changes is the extra effort required to take the test, for those applicants whose first language is English.



Amendments to the Citizenship Regulations

By Fiana Bakshan, Student at Law

The Canadian Government recently made amendments to procedures for the citizenship test, as outlined in the *Citizenship Regulations*¹. Effective October 14, 2010, citizenship applicants will be tested based on the new rules.

Updated Testing Procedures

Previously, the citizenship test contained three mandatory questions. Applicants were required to answer these questions correctly in order to pass the test. As of October 14, 2010, the mandatory questions will no longer be in effect and all twenty questions will be of equal weight.

The new *Citizenship Regulations* now require applicants to have “adequate knowledge” of various subjects. These subjects include the following:

- National symbols of Canada;
- Chief characteristics of Canadian political, military, social and cultural history;
- Chief characteristics of Canadian physical and political geography;
- Characteristics of Canada, other than those referred to above;
- Participation in the Canadian democratic process;
- Participation in Canadian society, including volunteerism, respect for the environment and the protection of Canada’s natural, cultural and architectural heritage;
- Respect for the rights, freedoms and obligations set out in the laws governing Canada; and
- Any of the responsibilities and privileges of citizenship other than those referred to above.

Applicants must also have “adequate knowledge of English or French.” Based on this standard, applicants must have the ability to communicate

so that they are understood and they are able to understand others.²

Re-Testing

Prior to the amendments, applicants who answered one or more of the mandatory questions incorrectly were scheduled for a rewrite or to appear for a hearing before a citizenship judge. These individuals may have already been scheduled for a retest or hearing at the time the amendments came into effect on October 14, 2010. Citizenship and Immigration Canada has accounted for the following scenarios:³

- If a hearing was already scheduled as of October 14, the citizenship judge must be consulted to determine if the judge will conduct a paper review or continue with the hearing. Should the judge agree to a paper review the hearing will be cancelled.
- Applicants who were already scheduled to rewrite a test on or after October 14 will be referred to a citizenship judge for a paper review and decision.
- Those applicants who were not scheduled for a hearing or retest as of October 14 will no longer be required to retest or attend a hearing. These applications will also be forwarded to a citizenship judge for a paper review and decision.

An applicant requiring retesting must wait a minimum of two months from the date the applicant wrote his/her first citizenship test before trying again

A new study guide, entitled *Discover Canada: The Rights and Responsibilities of Citizenship*, is now available on the Citizenship and Immigration Canada website.

Footnotes

¹ Regulations Amending the Citizenship Regulations, S.O.R./2010 – 209, September 30, 2010.

² Citizenship and Immigration Canada, Frequently Asked Questions: Applying for Citizenship, <http://www.cic.gc.ca/english/information/faq/citizenship/cit-guide-faq07.asp>.

³ Citizenship and Immigration Canada, Operational Bulletin 244 – October 13, 2010: Amendments to the Citizenship Regulations and Updated Guidelines Regarding the Citizenship Test <<http://www.cic.gc.ca/english/resources/manuals/bulletins/2010/ob244.asp>>

Changes to the Live-in Caregiver Program & Permanent Residency Requirements for Live-In Caregivers

by Elizabeth Coyle, Summer Research Student

Changes to the Live-In Caregiver Program

Introduction

The Live-in Caregiver Program (the “LCP”) is a special component of the Temporary Foreign Worker Program (the “TWFP”) which operates by facilitating entry of qualified caregivers into Canada. These caregivers later have the opportunity to apply for permanent resident status. In 2008, 12,878 individuals entered Canada through the LCP and that number is expected to grow as the demand for caregivers rises, particularly for those who work with the elderly.

Changes to the LCP were announced in December, 2009 and took effect on April 1, 2010. Those changes were largely in response to criticisms that the program unfairly treated its largely female participants, leaving them vulnerable to abuse and exploitation. The recent changes are focused both on providing greater protection for workers while the workers are part of the LCP and improving the workers’ subsequent ability to gain permanent resident status.

Changes to Employers’ Responsibilities

Employers who have applied for a Labour Market Opinion (LMO) under the Live-in Caregiver Program on or after April 1, 2010 are responsible for the following:

- paying their caregiver’s health insurance at no cost to the caregiver until he/she becomes eligible for provincial health coverage.
- enrolling their caregivers in provincial workplace safety insurance (worker’s compensation) or comparable insurance if the former is not available at no cost to the caregiver.
- paying for all the services provided by a recruitment agency or third party used in the hiring of a foreign live-in caregiver, if the employer chooses to use this type of service.
- paying the cost of transportation of the caregiver from either a foreign country to Canada or, if the caregiver is currently in Canada, from his/her current location to the location of work.

- submitting an employment contract to Human Resources and Skills Development Canada (HRSDC)/Service Canada with the LMO application. That employment contract must include the following terms:
 - Duration of the contract
 - Duties of the position
 - Hours of work (including wages, overtime, holidays, and sick leave)
 - Accommodation arrangements, as per provincial and municipal standards
 - Registration for provincial workplace safety coverage
 - Transportation costs and arrangements
 - Health Care provisions
 - Recruitment fees
 - Terms of resignation and termination

None of the costs borne by the employer from fulfilling the above requirements can be later recouped from the caregiver.

Changes to Permanent Residency Requirements for Live-In Caregivers

Live-in caregivers are no longer required to undergo a second medical examination when applying for permanent resident status.

There is also increased flexibility in the Application Requirements for Permanent Resident Status

Previously, live-in caregivers were required to work for two of the initial three years following their entry into Canada in order to be eligible for permanent resident status. As a result of two changes to the program, caregivers now

have more flexibility in fulfilling the requirements necessary for permanent resident status eligibility. First, caregivers can calculate their total time worked through either *months* of authorized employment or *hours* of authorized employment. This change allows caregivers to include their overtime hours in their application for permanent resident status and potentially be eligible for permanent residence status in less than two years. Second, caregivers now have four years to accumulate the equivalent of two years of full time employment (24 months or 3900 hours) following their entry into Canada.



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