Canadian Immigration: Options for Employers when Hiring Foreign Workers

This information is for employers who are looking to hire an immigrant – it outlines some of the eligibility criteria for an employer and employee and is meant to help you decide what route you will take for hiring an immigrant. It does not contain 100% of the information, but it will help you narrow down which option you qualify for and what works for you (permanent position, temporary, etc). Remember, laws are always changing! Go to the Citizenship and Immigration Canada (CIC) website for all up to date information.

Remember, IMSS can help you with this information. If you have questions about what immigration route is best for you and your employee to go through or need clarification when filling out forms, IMSS can help guide you through the process: call IMSS at 250-562-2900.

**Anyone you hire cannot have a criminal record, even a DUI; they will most likely be refused entry at the border. There are some exceptions where you can ask the Ministry of Justice to grant entry or a pardon (if it’s been more than five years since the completion of their sentencing), but there is not guarantee they will be allowed.**

Acronym Guide

NOC – National Occupation Classification
LMO – Labour Market Opinion
AEO – Arranged Employment Opinion
NAFTA – North American Free Trade Agreement
CIC – Citizenship and Immigration Canada
IMSS – Immigrant and Multicultural Services Society of Prince George
TFW – Temporary Foreign Worker
FSW – Federal Skilled Worker
PR – Permanent Resident
PNP – Provincial Nominee Program

Permanent Resident

- A permanent resident is someone who has acquired permanent resident status by immigrating to Canada, but is not yet a Canadian citizen. A permanent resident may apply to become a citizen after residing 1095 days in Canada.
- Permanent residents have rights and privileges in Canada even though they remain citizens of their home country. In order to maintain permanent resident status, they must reside in Canada 2 years out of every 5 years.
- A person in Canada temporarily, such as an international student or a temporary foreign worker, is not a permanent resident.
- As a permanent resident, they and their dependants have the right:
  - To receive most social benefits that Canadian citizens receive, including health care coverage
  - To live, work or study anywhere in Canada, except Quebec.
  - To apply for Canadian citizenship.
To benefit of the protection offered under Canadian laws and the Canadian Charter of Rights and Freedoms.

- They must pay taxes, and respect all Canadian laws at the federal, provincial and municipal levels
- What permanent residents cannot do
  - Vote or run for political office
  - Hold certain jobs that have a high-level security clearance requirement
  - Remain in Canada if they are convicted of a serious criminal offence and have been told to leave the country

Temporary Foreign Worker Program (TFW)

- Allows employers to hire foreign workers to fill temporary labour and skill shortages – hire someone from abroad or someone in Canada
- The worker can already be in Canada and apply if they are about to complete a job contract with another employer or they hold an open work permit
- Can hire someone for either full-time or part-time but whatever hours are put in the job contract must be maintained while the TFW is working for them (unless the employer cannot afford to pay the wages anymore, facing bankruptcy)
- Can take 12-15 months to be approved
- Can hire foreign workers up to four years
- Employers will need to get a Labour Market Opinion (LMO) done to prove there is a need for a foreign worker and there is no Canadian available to do the job
  - This has to be done through Service Canada, you have to submit a clear and specific job description and proof that the posting was posted on the job bank for a minimum of 14 days and either no one applied for the position or prove who did apply wasn’t qualified, and Service Canada will either approve or deny the request
- Employers can apply for an extension of the work permit, must do so at least 30 days before the expiry, and it’s possible that you have to do a new LMO (and you cannot extend past the four year maximum, the employee must leave the country after that if they want to continue to be a TFW and apply again)

- There are four steps to hire a TFW
  - 1. Determine if you need a LMO by going here: [http://www.cic.gc.ca/english/work/apply-who-permit.asp](http://www.cic.gc.ca/english/work/apply-who-permit.asp) Almost everyone needs an LMO for a TFW unless there is a bilateral agreement between countries such as NAFTA
  - 2. Apply for an LMO if necessary – If approved, send a copy of the confirmation (with confirmation number), the detailed job offer, and the original signed job contract – with this information the worker can now apply for work permit in their home country
  - 3. The worker applies for a work permit at a Canadian Visa office abroad and will determine if they are eligible for the permit
4. If they are eligible, a Canadian border Services agent will issue the work permit at the point of entry when the worker arrives in Canada

- Depending on where the foreign worker is from, some may have to also need to get a temporary resident visa, but the worker does not need to apply for it separately it will be issued at the point of entry if the work permit is approved and there is no extra fee
- Some workers may also need a medical exam before being approved for the work permit – this depends on the job they are doing and where they lived the last year. To find out if your worker will need an exam look here: [http://www.cic.gc.ca/english/information/medical/index.asp](http://www.cic.gc.ca/english/information/medical/index.asp)
- If employers are hiring agricultural workers (fruit pickers), then the employer needs to provide housing and travel expenses to the employee
- For hiring lower skilled employers (either skill level C or D) employers must help their employee find housing, but do not have to pay for it or travel expenses, and for all other workers (high skilled - level 0, A, B) the employee must pay for and find their own housing and travel expenses
- Some countries may require an exit visa – have the worker check local laws and regulations to see if they need one to leave their country

**Federal Skilled Worker (FSW)**
- When an individual is approved to come to Canada as a Federal Skilled Worker, they come here as a Permanent Resident
- Individuals can apply for this and eligibility is based on education, work experience, and knowledge of English or French
- An application will be processed according to six selection factors and applicant will have to score at least 67 point on a point test. A qualified job offer gives an applicant 5 to 15 points. Therefore, applicants who have a qualified job offer improve their chances of being approved
- There is a maximum number of people that can come through on this visa per year, and also the number of people per industry
- Takes around 12 - 50 months to be approved

- Need to have an eligible occupation to qualify: Skill Type 0 (managerial), skill level A (professional), or skill level B (technical and skilled trade) – which are defined as “higher skilled” occupations
- If an employer offers full-time employment for an applicant they can submit that with their application and could take about 6 - 50 months for approval
- The employer needs to get a Arranged Employment Opinion (AEO) done to offer a job instead of an LMO and they don’t need to advertise the job because it’s already been proven to be a job that has a labour shortage, there is more info on this here [http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/porremp.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/porremp.shtml)
• The employer must also offer comparable wages as to a Canadian
• A TFW who meets the requirement of the Federal Skilled Worker Program can apply for a FSW application if they are already in Canada, and they don’t need an AEO

**Working Temporarily as a Business Person – NAFTA:**

• Takes about 3 months to be approved

• Business Work Permit
  - Employers will not need to do an LMO to employ an American or Mexican – as long as they are qualified to work by being listed in one of the 60+ professions that are outlined in Appendix 1603.D.1 of Chapter 16 of NAFTA, more information here: [http://www.cic.gc.ca/english/work/special-business.asp](http://www.cic.gc.ca/english/work/special-business.asp)
  - An applicant must have prearranged employment with a Canadian enterprise

• An intra-company transferee
  - Have worked continuously for at least one year in the preceding three years for the same or affiliated employer in the United States or Mexico
  - Be transferred to Canada to work temporarily for the same or an affiliated employer and
  - Work in a capacity that is managerial, executive or that involves specialized knowledge.

**Provincial Nominee Program (PNP)**

• If you are looking to hire someone permanently – always try the PNP program first to see if you are eligible, it is a faster and easier process
• Takes 4-6 weeks to be nominated if the employee is already in Canada
• Takes about 6 months for the employee to get here if outside of Canada
• For strategic occupations or business immigrants who are
  - looking to settle in BC
  - are finically sound
  - don’t have a pending refugee claim
  - have legal status either in Canada or where they are applying from
• Faster than Federal Skilled Worker Program, takes about 6 weeks for the nominee to be approved (and then can start working) and then another 6 months to get their Permanent Residence Card

• Strategic Occupations:
  - **Skilled Workers**
    - Managers, professionals, technologists and technicians, skilled trades
  - **International Graduates**
    - Recent graduates of recognized Canadian post-secondary institutions
  - **International Post-Graduates Pilot Project**
    - Recent BC masters and doctorate graduates in natural, applied and health sciences
  - **Designated Health Professionals – Special agency, must go through “Health Match BC” program**
    - Registered nurses, midwives, registered psychiatric nurses, and physicians
  - **Entry Level and Semi-Skilled**
    - Select occupations in tourism/hospitality, food processing, and long-haul trucking. For positions
in the Northeast Development Region, the Northeast Pilot Project expands the ELSS to include all NOC C and D occupations.

Basic Requirements
The basic or pre-requirements cover all categories above and must be met prior to applying:
- the nominee applicant intends to settle in BC
- the nominee applicant has the ability to become economically established in BC
- if the nominee applicant is currently in Canada, they must maintain legal immigration status throughout the process and must not be subject to a removal order.
- the nominee applicant does not have an active refugee claim
- if the nominee applicant is currently outside Canada, they must not be prohibited from entering Canada and must have legal status in the country in which they are currently residing.

The following requirements cover all categories except for the International Post-Graduates Pilot Project and must be met prior to applying:
- the employer has offered, and the nominee applicant has accepted permanent and full-time employment in an eligible occupation
- the nominee applicant is qualified to do the job
- the wage offered is competitive with BC wage rates for the occupation
- the nominee applicant’s occupation offers good long-term prospects
- the employer is financially sound, with a history of good workplace and business practices, has been operating in BC for at least one year (two years for an Entry Level and Semi-Skilled employer) and currently has at least five permanent full-time employees, or full-time equivalents (three if located outside of Metro Vancouver)
- the nominee applicant may not own 10% or more of the supporting employer company
- the employment of a foreign worker will be of significant economic benefit to BC
- the employment of a foreign worker will not adversely affect the settlement of a labour dispute, or the employment of anyone involved in any such dispute
- the employer has actively recruited locally to fill the position

Working on Campus
- Students holding a valid study permit and going to school full-time can work on campus. They don’t need a work permit to work ON campus.
- As temporary resident, they will have a SIN that starts with a 9
- Have to be attending school at a participating institution (CNC and UNBC are)

Off Campus Work Permit
- Full-time students in Canada on a student permit are eligible to apply for a OFF Campus work permit
- Must apply for the permit before they are allowed to work off-campus
- Takes about 3 months to be approved
- Only allows to work a maximum of 20 hours a week, but are allowed to work full-time during scheduled academic breaks
- Students must maintain satisfactory academic results as stated by their school or forfeit their permit
• Must be enrolled at a public institution for study or a school that is listed by CIC as qualifying (CNC and UNBC are participating institutions)
• As temporary resident, students will have a SIN that starts with a 9

**Post-Graduation Work Permit**

• Available to foreign students who have studied full-time in Canada for at least 8 months and completed the program in Canada
• Must have graduated from a public institution or one of the participating institutions listed here: [http://www.cic.gc.ca/english/study/institutions/participants.asp#bc](http://www.cic.gc.ca/english/study/institutions/participants.asp#bc) (CNC and UNBC are)
• Must apply for a work permit within 90 days of receiving written confirmation of completion of a student’s program
• Takes 2-3 months to be approved
• Must have a valid study permit when an individual applies
• A work permit can only be issued for the amount of time an individual studied here, up to a maximum of three years
• An applicant can only have a post-graduate work permit once, and there are no extensions past three years
• If the applicant was on exchange or received some Canadian financial aid it can make them ineligible for the permit, these details are available here: [http://www.cic.gc.ca/english/study/work-postgrad-who.asp](http://www.cic.gc.ca/english/study/work-postgrad-who.asp)

**Canadian Experience Class**

• TFW or a foreign students who graduated in Canada can apply
• TFW needs at least two years full-time skilled work experience (in the last 10 years) in Canada
• A foreign student needs at least one year of full-time skilled work experience (in the last 10 years) in Canada
• Off-campus work permit work experience does not count towards the one year of work experience
• Need to take a language test
• Skilled work experience means: a job that fits into Skill Type 0 (managerial), skill level A (professional), or skill level B (technical and skilled trade)

**International Experience Canada**

• For youth, aged 18-35
• Allows applicants to work in Canada for up to one year
• Can do either a working holiday, young professionals, international coop – depends what country the applicant is from which options are available, which are available here: [http://www.international.gc.ca/experience/destinations_out-destinations_sortant.aspx?lang=eng&view=d](http://www.international.gc.ca/experience/destinations_out-destinations_sortant.aspx?lang=eng&view=d)