

Primer on the Express Entry System

After more than a year since its official launch in January 2015, the Express Entry system is still causing a lot of confusion and misunderstanding for many prospective permanent residence applicants. Thus, it may help to review some of the main features of the Express Entry system to avoid further misinformation and resulting frustration for all concerned.

First, it must be noted that the Express Entry system did not create another immigration or permanent residence category. It is simply a new way of admitting applicants to the existing immigration programs, namely: the Federal Skilled Worker, Federal Skilled Trades, Canadian Experience Class and selected Provincial Nominee Programs.

Second, the Express Entry system has reversed the immigration application process in that instead of the applicants being allowed to submit then wait for their applications to be processed, they are simply asked to express their interest by creating an online profile, then made to wait until they are given an invitation to apply (ITA) before they can submit their application for permanent residence. In other words, the waiting period has become much more uncertain (albeit relatively faster for those who are given an ITA) for those wishing to immigrate to Canada.

Third, since the criteria for the existing immigration programs (Federal Skilled Workers, Federal Skilled Trades and Canadian Experience Class) remain the same, the Express Entry System continues to apply only to immigration applicants who qualify under the so-called high-skilled occupations, i.e. those falling under skill levels O, A or B in the National Occupation Classification (NOC). Those who are working in, or have work qualifications that fall under levels C or D (or the so-called "low-skilled occupations"), are not qualified to apply for permanent residence under the Express Entry. This was true before the introduction of the Express Entry system and remains true at present.

Only some provincial nominee programs (PNP) qualify under the Express Entry system because there are some PNP categories that are open to those working in NOC C and D occupations. The latter applicants can still apply for permanent residence under the relevant PNP class but they will not qualify under the current Express Entry system.

Similarly, caregivers under the Live-in Caregiver Program or the newly-created Caregiver for Children and Caregiver for People with High Medical Needs pathways, do not qualify under the current Express Entry framework. Although there are NOC A and B occupations under the new caregiver programs such as registered nurses, registered psychiatric nurses or licensed practical nurses, the Express Entry system still does not allow permanent resident applications under the caregiver programs within this new framework. To qualify under Express Entry, these registered nurses must meet the criteria under the Federal Skilled Worker, Canadian Experience Class or one of the PNP programs.

Once the candidate is determined to have met the Express Entry criteria, he or she will be entered into the Express Entry pool and will be ranked based on the total points garnered under the Comprehensive Ranking System (CRS). The total maximum points one can get under the CRS is 1,200, with a maximum of 600 points allotted for the various skill/experience and skill transferability factors and another 600 points for a validated offer of employment (i.e. a positive labour market impact assessment or LMIA) or for an approved provincial nomination. CIC will then draw the highest ranking candidates from this Express Entry (EE) pool who will be given an invitation to apply (ITA) for permanent residence.

Once an ITA is issued, the candidate will have only 60 days within which to submit the permanent residence application. Those who receive an ITA will need to take this deadline seriously and ensure that all required documents are submitted by the deadline date. Extensions are rarely granted and only in exceptional circumstances. If the deadline is not met, the permanent residence application will be refused and the applicant will have to create another profile and be accepted into the EE pool once again before being considered for future ITA draws.

Starting 31 January 2016, CIC has been conducting draws every two weeks, and had been issuing ITAs to applicants who meet the Express Entry criteria. During the first few draws, only those applicants with confirmed employment offers (i.e. LMIA) or provincial nomination certificates received invitations to apply. In subsequent draws however, the minimum CRS score of those given ITAs have been reduced to between 450 to 500 points. This meant that even applicants without LMIA's or provincial nominations, but have higher scores in other areas (e.g. official English language test scores, age, education and work experience) could still be issued an ITA. In the past several months, the biweekly draws have been averaging at around 1,500 ITAs issued per draw with minimum CRS scores of between 450 to 480 points.

The recently-announced 2016 immigration levels plan stated that the target level for economic immigrants is 160,600. Of this number however, those falling under the Federal Economic High-Skilled immigrants is limited to 58,400. This number includes those who applied before and after the Express Entry system took effect. So if this target level includes family members of the principal applicants, then we may expect the numbers of those issued ITAs under the EE system to start decreasing each draw, and the minimum CRS points to start increasing, as the annual quota gets closer to being filled.

Another important issue to watch out for is that of misrepresentation, which could not only lead to a refusal but will also result in a five-year bar from returning or reapplying to come to Canada. Applicants must therefore ensure that the information they will enter in their profiles will match with the information in the documents submitted after receiving an ITA.

The above is provided for information purposes only and not meant to provide specific legal advice. If you are unsure how to proceed, have specific questions or having problems navigating the EE system, it is best to seek the assistance of a trusted immigration legal professional.

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