

Proposed Changes to the Federal Skilled Worker Program

Citizenship and Immigration Canada (CIC) announced that as of 1 July 2012, it has temporarily stopped accepting applications under the Federal Skilled Worker Program (FSWP) category while awaiting changes to the program that are expected to take effect in early 2013. In the interim, only those with qualifying job offers, as well as PhD students and graduates, are able to apply under the FSWP.

On 17 August 2012, CIC released the details of the proposed regulatory changes to the FSWP which are based on the skills and qualifications that are perceived as “most likely to lead to success for skilled immigrants.” The major changes relate to the factors of language, age, work experience and arranged employment as well as spousal language ability and Canadian experience. The pass mark remains 67 points.

Minimum Threshold and Increase in Points for Language

The proposed changes recognize language as the most important factor “in ensuring successful socio-economic integration.” Therefore, it is proposed that the CIC Minister will set a minimum language threshold for FSW applicants. The points for language will also increase to a maximum of 24 points for all abilities (i.e. reading, speaking, listening and writing) in the first language and a maximum of 4 points for the second language. The proposed maximum total of 24 points for the first language is substantially higher than the maximum (16 points) under the current regulations. The maximum points awarded for the second language on the other hand, has been reduced from 8 points to 4 points under the proposed changes.

Favoring Younger Immigrants and Reduced Points for Work Experience

Under the proposed changes, the points for age will be increased to a maximum of 12 points for those between the ages of 18 to 35, with points diminishing after age 35 and becoming 0 upon reaching 47 years old. However, being 47 or over does not disqualify a person from submitting an application for permanent residence under the FSWP. At present, a maximum of 10 points are awarded to applicants who are between 21 and 49 years old.

CIC proposes reducing the total number of points for work experience to 15 from the previous 21 points, with maximum points being given for at least 6 years work experience (instead of the present 4 years).

Credential Assessment and Revised Points for Education

The proposed changes require that an applicant’s credentials be evaluated by an accredited agency in Canada to ensure that the foreign credentials meet Canadian requirements, including those applying under regulated occupations. If the applicant’s credentials do not meet the requirements for practicing that occupation in Canada, the applicant will not qualify to apply for permanent residence under the FSWP for that particular occupation.

Arranged Employment through a Valid LMO; No More AEOs

As a way to minimize fraud and non-genuine job offers, CIC is proposing that a valid employment offer be represented by a positive labour market opinion (LMO) and/or an indeterminate job offer (if LMO-exempt) instead of an arranged employment opinion (AEO). This is also meant to streamline the process by avoiding the need for employers to apply for two types of opinion if the applicant also wishes to stay in Canada as a temporary foreign worker while a FSW permanent residence application is in process.

Adaptability Factors and Settlement Funds

Under the adaptability factor, one year work experience in Canada will be given the full 10 points while a valid arranged employment will be given 5 points. The applicant and or the spouse' previous study in Canada will be given 5 points while a spouse' previous work experience in Canada and language ability will be granted 5 points.

Those with arranged employment are currently exempt from providing proof of settlement funds ("show money") whether or not they are working or have worked in Canada. Under the proposed changes, only those who are working or have worked under a valid work authorization in Canada will be exempt from the required proof of settlement funds.

Foreign Skilled Trades Class

The proposed changes also introduce a new category of permanent resident applicants, called the Foreign Skilled Trades Class (FSTC). This class will include those with credentials in the following areas: industrial, electrical and construction trades; maintenance and equipment operation trades; supervisors and technical occupations in natural resources, agriculture and related production; processing, manufacturing and utilities supervisors and central control operators; chefs and cooks, bakers and butchers.

Applicants under the FSTC will be required to meet: a) a qualifying job offer (or two) from a Canadian employer for at least one year or a Certificate of Qualification from a provincial or territorial Apprenticeship Authority; b) official language test results that meet the threshold set by the Minister; c) 24 months of work experience in the same skilled trade in the last five years; and d) possession of NOC-specified employment requirements except for the Canadian certification and licensing requirements.

Canadian Experience Class

The Canadian work experience requirement would be reduced to one year (from the previous 2 years) in the past 3 years. The CEC remains open only to applicants with NOC 0, A or B, i.e. managerial, supervisory, professional and skilled trades work experience.

(Please note that the above are for legal information purposes only and not intended to provide specific legal advice. It is strongly advised that you consult with a legal professional to discuss your particular circumstances.)

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