

### ***New Federal Skilled Worker Changes and Start-Up Visa Program***

On 1 July 2012, Citizenship and Immigration Canada (CIC) temporarily stopped accepting applications for permanent residence under the Federal Skilled Worker category unless the applicant has a validated arranged employment offer from a Canadian employer, is enrolled in good standing in a PhD program for the last two years or graduated from a PhD program within the last 12 months from a Canadian university.

Many have been waiting for CIC to announce when the Federal Skilled Worker Program will be reopened and to see what the new program will look like. Recent announcements from CIC have given us a general idea of the changes, which are expected to include the following:

- Language points will be given the biggest weight among all the selection factors for up to a maximum of 28 points (or 24 points for the first official language and 4 points for the second). Previously, the maximum points awarded for the first language was 16, plus up to 8 points for the second language, or a maximum of 24 points. The reason for this change is that CIC is convinced that language skills in either English or French is a major factor that helps facilitate quicker integration into Canadian society.
- For the age factor, a maximum of 12 points will be given for applicants who are between 18 and 35 years old. Prior to this, the cut-off age to be entitled to a maximum of 10 points was 49 years old. The rationale given for this new emphasis on younger immigrants is that they “are more likely to acquire valuable Canadian experience, are better positioned to adapt to changing labour market conditions, and who will spend a greater number of years contributing to Canada’s economy,” according to CIC.
- Under the education factor, the points awarded (maximum of 25 points) will not anymore be based solely on the degree/s obtained and the total number of years of education. Under the new rules, there will be a mandatory assessment of foreign educational credentials by an assessment agency or regulatory body to be designated by CIC.
- The points for foreign work experience have been reduced to 15 points (from the former 21 points) with increased number of years required to receive the maximum points. This is in recognition of the fact that unlike age and language skills, foreign work experience had proven to be a weaker indicator of success in the Canadian labour market.
- The arranged offer of employment (AEO) which was accepted under the previous system as a basis for awarding points under the arranged employment factor, will be replaced by the labour market opinion (LMO). One of the main differences between an AEO and an LMO is that the latter requires the employer to advertise the job and try to find Canadians or permanent residents first. Since the LMO can also be used by the foreign worker to apply for a work permit, this will allow the applicant to start working legally in Canada even before the grant of permanent resident status.
- The adaptability factor is still given the maximum of 10 points but CIC states that there will be more opportunities to gain more points under this factor, including work experience, period of study in Canada and language proficiency of the applicant’s spouse.

CIC also announced that new applications will be accepted starting 4 May 2013, based on the new eligibility criteria. However, as of this writing, many questions remain as no exact details have

been released, i.e. whether there will be a new occupations list, whether the pass mark will remain at 67 points (out of a maximum of 100 points), and which credential assessment organizations and regulatory bodies will be designated to conduct the required education credential assessment of the applicants.

### ***Start-Up Visa Program***

For the entrepreneurial types, a new and ambitious pilot project which took effect on 1 April 2013 with much fanfare may be something worth looking into. The Start-Up Visa Program is supposedly intended to attract innovative ideas from start-up entrepreneurs who are able to convince a Canadian venture capital fund or an angel investor group to invest a designated minimum amount in the applicant's business (\$200,000 from a Canadian venture capital fund or \$75,000 from a Canadian angel investor group). Once the applicant is able to secure the required funding commitment, this can be used as basis for applying for a permanent resident visa, provided that the language, education and settlement fund requirements are also met.

CIC states that this new category is meant "to enable immigrant entrepreneurs to launch innovative companies that will create jobs in Canada, and eventually, compete globally" by linking them up with private entities which can assist in "navigating the Canadian business environment." However, the guidelines require that prospective applicants will need to approach and apply for funding directly from any of the designated Canadian venture capital fund or angel investor groups. Only after the applicant's business plan is approved and granted the minimum investment required can an application for a Start-Up immigrant visa be submitted to CIC.

These recent changes, along with the Federal Skilled Trades Program that was introduced in January 2013, are all consistent with the present government's goal to "help address serious labour shortages in some regions of the country, and support economic growth," CIC Minister Jason Kenney said. "For too long, Canada's immigration system has not been open to these in-demand skilled workers. These changes are long overdue and will help us move to a fast and flexible immigration system that works for Canada's economy," he added.

Whether or not such goals will be met by these changes remain to be seen. While a focus on jobs and the economy is admittedly important, it is hoped that this will not lead to the eclipsing of the other equally important immigration objectives such as family reunification and the promotion of Canada's human rights and humanitarian obligations.

*The above are for legal information 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.*

*On a personal note, I would like to wish my dearest sister, Cecille Santos, a very happy birthday!*