

CANADA
Canadian nonimmigrant and immigrant Visas
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1. TEMPORARY STATUS IN CANADA

Pursuant to the *Immigration and Refugee Protection Act* (hereinafter referred to as “**IRPA**”) and the *Immigration and Refugee Protection Regulations* (hereinafter referred to as “**IRPR**”), the right to work in Canada without having obtained prior authorization is exclusively reserved for Canadian citizens as well as Canadian Permanent Residents. As such, save for a few limited exceptions¹, foreign nationals wishing to work in Canada must obtain a Work Permit prior to beginning employment in Canada.

In Canada, both Employment and Social Development Canada (ESDC) as well as Immigration, Refugees and Citizenship Canada (IRCC) are involved in the Work Permit application and issuance process. In the province of Quebec, the Quebec Immigration Department – *the Ministère de l’Immigration, Diversité et Inclusion*, will also play a role in this process with certain categories of Work Permits where a Quebec certificate of Acceptance (CAQ) is required.

While it is solely within IRCC’s purview to grant Work Permits to foreign nationals, ESDC operates the Temporary Foreign Worker Program (TFWP) which, in most cases², is the gateway to obtaining a Work Permit. Through the TFWP, Canadian employers wishing to hire foreign nationals to work in Canada can apply to obtain a Labour Market Impact Assessment (LMIA) which, if granted, forms the basis of a foreign national’s Work Permit application. Once an LMIA confirmation is issued, a foreign worker can apply to IRCC for a Work Permit.

1.1. THE TEMPORARY FOREIGN WORKER PROGRAM

1.1.1 The “Regular” LMIA process

Under the “regular” LMIA process, employers wishing to hire foreign nationals in Canada fall under either the “high-wage” LMIA stream or the “low-wage” LMIA stream, each with its own

¹ Since June 12, 2017, under the Global Skills Strategy, skilled professionals seeking to enter Canada for a short duration (i.e. 15 days within a six-month period or 30 days within a 12-month period) may work in Canada without a Work Permit. As well, pursuant to Regulation 186 of the *IRPR*, business visitors as well as other foreign nationals seeking to work in certain areas (e.g. clergy members) do not require a Work Permit to do so.

² Work Permits can be granted by IRCC through the International Mobility Program, discussed below.

program requirements and distinctive features. Employers wishing to participate in the TFWP must first identify if the hourly wage they intend to offer the foreign national is above or below the “provincial or territorial median hourly wage” to determine which of the “high-wage” or “low-wage” streams is applicable to them. Secondly, employers must ensure that the hourly wage being offered to the foreign national not only meets the provincial or territorial median hourly wage, but also meets the “prevailing wage” of the position they are seeking to fill.³

Under both the “high-wage” as well as the “low-wage” stream, the aspect that is often the most cumbersome to manage is surely the requirement imposed on employers to advertise the position being offered to the foreign national for a minimum of four (4) consecutive weeks on at least three (3) different methods of recruitment. While often seen by employers as an administrative barrier hindering the recruitment of foreign workers in Canada, ESDC strictly enforces this program requirement and shortcomings are rarely justifiable. The objective behind this rigorous and time-consuming measure is intended to allow ESDC to perform a comprehensive survey of the Canadian labour market, to analyze the results of the recruitment process undertaken by the employer and to ensure the foreign national’s presence within the Canadian labour market will either have a positive or a neutral effect. In other words, prior to issuing an LMIA confirmation, ESDC must verify that there are no Canadian citizens or Canadian Permanent Residents qualified and available to assume the vacant position that the employer is seeking to fill with the foreign national in Canada. Given the effort involved in preparing such LMIA applications and the lengthy processing times that ensue, many employers, when possible, shy away from the TFWP and attempt to identify alternative approaches to hire the talent they require in Canada.

Prior to submitting an LMIA application, employers should proceed with caution and be advised of the importance of compliance. Under the *IRPR*, ESDC has the authority to conduct audits and perform in-depth inspections to ensure employers participating in the TFWP who have foreign workers on their payroll pursuant to a valid Work Permit adhere to every condition described in the LMIA confirmation. If non-compliance is identified, even a minor violation can result in severe consequences for the employers.

While the TFWP process, program requirements and features remain the same in the Province of Quebec as in other Canadian provinces and territories, employers as well as foreign nationals should be aware that if the job offer is in the Province of Quebec, a foreign national must also apply for a Quebec Acceptance Certificate (CAQ), in parallel to their employer securing an LMIA. In Quebec, the *Ministère de l’Immigration, de la Diversité et de l’Inclusion* (MIDI)’s role is substituted to ESDC in two main respects: ensuring the terms of the job offer meet provincial labour standards as well as the “prevailing wage” and verifying that the foreign national meets the employment requirements of the job and is in a position to assume the role in Quebec. An LMIA confirmation and a CAQ are issued conjointly in Quebec.

It is noteworthy to point out that employers who wish to hire foreign workers in certain categories are subject to variations to minimum advertising requirements (e.g. academics, those working in

³ Prevailing wages are listed on the Government of Canada “Job Bank”. “Explore careers- Wage report” *Government of Canada* (September 20, 2018) online: <https://www.jobbank.gc.ca/wagereport/location/geo27236>

the entertainment sector, owner/operators, specialized service technicians/providers, to name only a few).⁴

1.1.2 The Facilitated LMIA process for Quebec Employers

In Quebec, in addition to the “regular” LMIA stream, a facilitated and streamlined process, “the Facilitated LMIA process for Quebec Employers” is available for employers wishing to hire a foreign national in one of 60 professions⁵ which are deemed to be in shortage in Quebec. A list of these in-demand occupations is maintained by the MIDI and is annually updated, traditionally in February. Should an employer wish to hire a foreign national in one of these in-demand occupations, they will benefit from shorter processing times (although recent processing times have considerably slowed down due to a large backlog of applications) and, importantly, an exemption from the requirements to advertise the position/having to demonstrate local recruitment efforts.

1.1.3 Global Skills Strategy Global Talent Stream⁶

Introduced on June 12, 2017, the Global Skills Strategy Global Talent Stream (GTS) is led by ESDC under the TFWP and, similarly to the “Facilitated LMIA process for Quebec Employers”, aims to significantly reduce administrative barriers and ensure that qualifying Canadian employers have access to a facilitated and streamlined LMIA process. To achieve these important objectives, ESDC has removed the advertisement requirements and has committed to process these priority LMIA applications within 10 business days.

A Canadian employer may be eligible for Category A of the Global Talent Stream if referred to the GTS by one of ESDC’s 27 designated partners⁷ and if the employer plans to hire unique and specialized talent (defined as advanced knowledge, advanced degree of specialization, at least 5 years of experience and an annual salary of \$80,000 or more). A Canadian employer may be eligible for Category B of the GTS if seeking to recruit foreign workers to occupy positions for which there is a shortage in the Canadian labour market (as determined by a “Global Talent occupations list”). There are currently 13 occupations on this list⁸, the vast majority being information technology and software development-related occupations. While the fast processing times and advertisement exemptions are certainly attractive to Canadian employers seeking to employ foreign talent in Canada, the “downside” to the GTS stream is the mandatory Labour Market Benefit Plan (LMBP) that is required from all participating employers. Through the

⁴ For more information on all available variations to minimum advertisement and their respective description, please see: “Variations to minimum advertising requirements” *Government of Canada* (September 18, 2018) online: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/variations.html>

⁵ For a full list of all in-demand professions under the Facilitated LMIA process for Quebec Employers, please see : “Liste des professions admissibles au traitement simplifié” *Immigration, Diversité et Inclusion Québec* (February 28, 2018) online: <https://www.immigration-quebec.gouv.qc.ca/fr/employeurs/embaucher-temporaire/recrutement-haut-salaire/liste-professions/index.html> (list to date as of February 24, 2018)

⁶ This section is an extract taken from a prior unpublished article written by Isabelle Owston which was sent-out to Gomberg Dalfen S.E.N.C.’s clients via an internal firm newsletter on June 12, 2017

⁷ There are three (3) designated partners operating in the Province of Quebec.

⁸ “Program requirements for the Global Talent Stream” *Government of Canada* (September 26, 2018) online: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/global-talent/requirements.html#h13>

LMBP, participating employers must commit to conducting one mandatory activity which will benefit the Canadian economy either through job creation, skills and training investments as well as other complementary activities to reach this important objective. ESDC is following up with participating employers every 6, 12, 18 and 24 months to ensure they are on track to respect the commitments agreed upon with ESDC.

In order to ensure the efficacy of the GTS stream, IRCC is currently processing Work Permit applications within 10 business days. It is important to note that in order to benefit from this priority processing, applicants must be residing outside Canada and, if applicable, must have undergone an “upfront” medical examination.

1.2 INTERNATIONAL MOBILITY PROGRAM

As opposed to the TFWP, IRCC operates the International Mobility Program (IMP) under the authority of the *IRPR* by which Work Permits can be granted without the need for employers to obtain an LMIA confirmation in favour of the foreign national they wish to hire in Canada.

1.2.1 International agreement Work Permits pursuant to Regulation 204 of the IRPR

As part of the IMP, IRCC may grant Work Permits to foreign nationals within the parameters provided by the various free trade agreements Canada has signed on to. Most notably, the North American Free Trade Agreement (NAFTA) enables citizens of the United States and Mexico to apply for Work Permits without their employers having to obtain an LMIA confirmation and to submit their applications directly at Canadian ports of entry. More specifically, NAFTA offers the possibility for certain professionals and technicians to obtain Work Permits, for intra-company transferees who will be assuming either a specialized knowledge position or a senior managerial position in Canada as well as for traders and investors.

T-23 Work Permits: Appendix 1603.D.1 of NAFTA lists over 60 professional and technical occupations for which it is possible for citizens of the United States and of Mexico who have a pre-arranged offer of employment in Canada to obtain a Work Permit. The “minimum education requirements” a foreign national must meet to be eligible for a Work Permit in a given occupation are described directly in NAFTA.⁹

T-24 Work Permits: Pursuant to the provisions of NAFTA, citizens of the United States and of Mexico may apply for Work Permits if they meet the definition of an intra-company transferee. In order to qualify, a foreign national must have been employed for at least one year within the preceding three (3) years within a US or Mexican enterprise and must be transferred to a “Canadian enterprise, parent, branch, subsidiary, or affiliate”¹⁰ of their foreign employer to assume either a specialized knowledge position or a managerial or executive position in Canada. Employers seeking to hire a foreign national as a specialized knowledge worker must provide

⁹ Please note that the “minimum education requirements” may vary for certain professions based on whether the foreign national holds US or Mexican citizenship.

¹⁰“Immigration Mobility Program: North American Free Trade Agreement” *Government of Canada* (September 27, 2017) online: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/international-free-trade-agreements/north-american.html>

evidence that the candidate possesses “a high degree of both proprietary knowledge and advanced expertise”.¹¹ Employers seeking to hire a foreign national in a managerial capacity must demonstrate that the employee will be “directing the management of the organization or a major component or function of the organization” and employers seeking to hire a foreign national must demonstrate that the employee will “manage[s] the organization, or a department, subdivision, function, or component of the organization”.¹²

While this category provides great opportunity for multinational and global companies, there is a relevant caveat to bear in mind: a foreign national being temporarily transferred to a Canadian enterprise, parent, branch, subsidiary or affiliate should hold a position of similar responsibility in Canada as their position abroad, as an international transfer is not meant to serve as a disguised promotion.

T-33 Work Permits: In addition to the NAFTA, Canada is also a member of the *General Agreement on Trade in Services* (GATS), which enables professionals and intra-company transferees to enter Canada to obtain Work Permits. Similarly, Canada is also a signatory to Free Trade Agreements with Chile, Peru, Colombia and South Korea which contain labour mobility provisions facilitating the temporary entry of professionals, intra-company transferees as well as traders and investors.

T-43 and T47 Work Permits¹³: On September 21, 2017, the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) came into force, including Chapter 10 which contains various labour mobility provisions for citizens of the European Union (EU).¹⁴

Under CETA, there are two (2) types of professionals who can obtain Work Permits: contractual service suppliers and independent professionals (self-employed professionals). In order to be eligible for these Work Permit categories, contractual service suppliers or independent professionals must be employed in the EU, their employer must not have an existing establishment in Canada and the employer (or the individual in the case of an independent professional) must have a contract to provide services to a Canadian customer in Canada. It is important to note that unlike Appendix 1603.D.1 of NAFTA, Annex 10-E of CETA includes a list of the service sectors within which contractual service suppliers or independent professionals can obtain a Work Permit. There are 37 service sectors that are available for contractual service suppliers, including 17 that are available for independent professionals.

T-44 Work Permits¹⁵: CETA offers both a Senior Personnel and a Specialist Work Permit category akin to what is available under NAFTA as a Senior Manager or a Specialized Knowledge worker. However, CETA uniquely introduces a new Work Permit subcategory under

¹¹ *Ibid*

¹² *Ibid*

¹³ This section is an extract taken from a prior unpublished article written by Isabelle Owston which was sent-out to Gomberg Dalfen S.E.N.C.’s clients via an internal firm newsletter on October 2, 2017

¹⁴ The provisions of CETA apply to Canada and to the members of the European Union, namely: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

¹⁵ This section is an extract taken from a prior unpublished article written by Isabelle Owston which was sent-out to Gomberg Dalfen S.E.N.C.’s clients via an internal firm newsletter on October 2, 2017

the Intra-Corporate (company) stream specifically for Graduate Trainees. Under this subcategory, a candidate who is a citizen of the EU, who possesses a university degree and who has been offered employment in a subsidiary or a branch of their employer abroad can obtain a one-time 12-month Work Permit to enter Canada for career development purposes or to receive training in the company's business techniques and methods.

Most of the free trade agreements described above also offer the possibility for traders and investors to obtain Canadian Work Permits.

1.2.2. Canadian interest Work Permits pursuant to Regulation 205 of IRPR

In addition to labour mobility provisions found in free trade agreements, the *IRPR* creates several types of “Canadian interest” LMIA-exempt Work Permits as well as “Reciprocal employment” LMIA-exempt Work Permits.

The following “Canadian interest” Work Permit categories are available for foreign nationals whose presence in Canada is expected to create “significant benefits” within the Canadian labour market.

C- 10 Work Permits: Pursuant to Regulation 205 of IRPR, LMIA-exempt Work Permits can be issued to foreign nationals who, through their unique skills, their impressive educational and / or professional background, their international renown or their ability to significantly contribute to the Canadian labour market, will bring either social, cultural or economic benefits to Canada. While this is certainly a very broad and flexible category, designed to accommodate various types of situations for foreign nationals wishing to work in a host of different industries, there is a very high threshold to meet to qualify for this Work Permit category. Officers have great discretion in their analysis of whether significant benefits exist and must also take into consideration certain “objective measures” pertaining to the foreign national, such as evidence of international renown, degree of specialized skills, evidence of peer-reviewed work, etc. Generally speaking, this type of Work Permit can be granted in exceptional (and rare) situations for short durations and should therefore not be relied upon where other options are available. This category of Work Permit is also available for unique work situations, such as airline personnel (foreign airline security guards), interns with international organizations recognized under the Foreign Missions and International Organization Act, experts on missions working for a United Nations office in Canada, etc.

C-11 Work Permits: Similar to C-10 Work Permits, LMIA-exempt Work Permit can be issued to entrepreneurs (meaning foreign nationals who control at least 50% of a Canadian business operation) who are seeking to operate a business in Canada that will “generate significant economic, social or cultural benefits or opportunities for Canadian citizens or permanent residents”¹⁶. Although Work Permits, generally speaking, are typically issued to applicants who can demonstrate a temporary intention in Canada, exceptionally under this category,

¹⁶“International Mobility Program : Canadian interests – Significant benefit – Entrepreneurs/self/employed candidates seeking to operate a business [R205(a) – C11] *Government of Canada* (September 15, 2017) online: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/exemption-codes/canadian-interests-significant-benefit-entrepreneurs-self-employed-candidates-seeking-operate-business-r205-c11.html>

entrepreneurs who wish to eventually apply for permanent status in Canada are also eligible for Work Permits, thus allowing them to operate their business in Canada while awaiting to receive their Permanent Resident status. This category of Work Permit is also available for unique work situations, such as fishing guides on Canadian lakes, foreign camp owners or directors, outfitters, and foreign freelance race jockeys.

C-12 Work Permits: As an extension to GATS, Regulation 205(a) of the *IRPR* enables foreign nationals, regardless of their country of citizenship, to enter Canada as intra-company transferees to work within a Canadian “parent, subsidiary, branch or affiliate”¹⁷ of their current employer as either executives, senior managers or specialized knowledge workers. The intra-company transferee category created by Regulation 205(a) of *IRPR* is essentially identical to NAFTA; however, it is generally accepted that the threshold to prove specialized knowledge is somewhat greater and requires strong and unequivocal evidence of an employee’s proprietary knowledge and advanced level of expertise of the company’s products, procedures, methods and processes. Under this category of Work Permits, employers must ensure that the hourly wage they will offer the foreign national be at least equivalent to the “prevailing wage” corresponding to the position they are seeking to fill.

C-16 Work Permits: In an effort to increase the number of French-speaking individuals and to promote the use of the French language outside of the Province of Quebec, in June 2016, IRCC introduced a new “Canadian interest” Work Permit category which facilitates the entry of French-speaking individuals (regardless of their country of citizenship) to Canada. This Work Permit category is available to any foreign national with an offer of employment in Canada for a skilled or semi-skilled position whose “habitual language of daily use”¹⁸ is French, even if the job offer itself does not entail working in French or any knowledge of the French language.

Regulation 205(a) also creates LMIA-exempt Work Permit categories for “Emergency repair or repair personal for out-of-warranty equipment” (C-13 Work Permits) and for “Television and film production workers” (C-14 Work Permits).

In addition to the creation of “significant benefits” within the Canadian labour market, “Canadian interest” LMIA-exempt Work Permits can also be issued to foreign nationals in circumstances where opportunities for reciprocal employment exist for Canadian citizens abroad.

C-20 Work Permits: Regulation 205(b) creates an interesting Work Permit category enabling foreign nationals to obtain Canadian Work Permits to work for global or multinational companies in Canada when Canadian citizens have equal opportunities at offices abroad. Canadian employers wishing to hire foreign nationals in Canada under this category must demonstrate the

¹⁷“International Mobility Program: Canadian interests – Significant benefit – Intra-Company transferees – General requirements [R205(a)] (exemption code C12)” *Government of Canada* (December 19, 2014) online: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/exemption-codes/intra-company-transferees/canadian-interests-significant-benefit-general-requirements-r205-exemption-code-c12.html>

¹⁸“International Mobility Program: Canadian interests – Significant benefit – Mobilité francophone [R205(a)] (exemption code C16) *Government of Canada* (August 23, 2017) online: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/exemption-codes/canadian-interests-significant-benefit-mobilite-francophone-r205-exemption-code-c16.html>

existence of reciprocal employment opportunities for Canadian citizens abroad, which normally includes evidence of prior employment created for Canadians abroad and a formal global mobility policy adopted by the Canadian employers that provide such reciprocal employment opportunities.

C-21 Work Permits: In the same way that “private” sector reciprocal employment policies create opportunities for foreign nationals to obtain Work Permits, the International Experience Canada (IEC) program is a “formally recognized”¹⁹ program which provides the opportunity for young foreign nationals between the ages of approximately 18 and 35²⁰ to obtain Work Permits. Under the IEC, qualifying foreign nationals can obtain either open Work Permits under the IEC Working Holiday stream (for travel and work purposes), closed Work Permits under the IEC Young Professional stream (for career development purposes) or co-op Work Permits (for internship purposes)²¹. Foreign national whose country of citizenship has not adopted an IEC bilateral agreement or arrangement with IRCC may seek to obtain a Work Permit should they qualify with an IEC recognized institution²². It is important to note that these Work Permits are issued based on annual quotas and as such, will not necessarily be available to take advantage of on an as-needed basis.

Regulation 205(b) also provides for the issuance of Work Permit under the “reciprocal employment” heading for foreign nationals involved in academia (guest lecturers, teachers, elementary and secondary as well as visiting professors) (C-22 Work Permits) as well as for foreign national working in the field of performing arts (dance, opera, orchestra, etc.) (C-23 Work Permits).

Finally, in addition to Work Permits issued pursuant to free-trade agreements or “Canadian interest” provisions, certain other types of Work Permits can be issued for competitiveness and public-policy reasons such as spousal Work Permits (for married or common-law partners of foreign nationals with Work Permits or Study Permits in Canada), post-graduation Work Permits, Post-Doctoral Ph.D. fellow and award recipients, medical residents and fellows or charitable or religious workers.

¹⁹ “International Experience Canada [R205(b)] (exemption code C21) *Government of Canada* (April 5, 2018) online: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/exemption-codes/international-experience.html>

²⁰ Certain countries cap participation at age 29 (e.g. Mexico) or 30 (e.g. Australia). “Find out if you’re eligible – International Experience Canada “*Government of Canada* (September 26, 2018) online: <http://www.cic.gc.ca/english/work/iec/eligibility.asp>

²¹ “International Experience Canada – Bilateral agreements and arrangements: Canadian interests – Reciprocal employment (International Mobility Program) *Government of Canada* (July 10, 2018) online: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/exemption-codes/international-experience/canadian-interests-reciprocal-employment-international-experience-canada-bilateral-agreements-arrangements.html>

²² “International Mobility Program: Canadian interests – Reciprocal employment – International Experience Canada – Recognized organizations for foreign youth” *Government of Canada* (July 10, 2018) online : <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/exemption-codes/international-experience/canadian-interests-reciprocal-employment-international-experience-canada-recognized-organizations-foreign-youth.html#iec-org>

2. PERMANENT RESIDENCE STATUS IN CANADA

2.1 Economic Streams²³

Since the introduction of the Express Entry online management system on January 1, 2015, obtaining Permanent Residence status in Canada (other than in the Province of Quebec) has moved from a direct application intake process towards a two-tiered process by which a foreign national must necessarily be invited to apply for Canadian Permanent Residence prior to applying to Immigration, Refugees and Citizenship Canada (IRCC).

A foreign national wishing to obtain Permanent Residence in Canada must meet the minimum eligibility and selection criteria of one of IRCC's federal economic programs: the Federal Skilled Worker Program, the Federal Skilled Trades Program or the Canadian Experience Class program. Once a candidate meets the core requirements of either of these programs, they must go through the Express Entry system in order to secure an Invitation to Apply for Canadian Permanent Residence.

The Express Entry system is an online application system used to manage, assess and approve economic stream Permanent Residence applications. Once a candidate has submitted their application "profile" in the Express Entry pool of candidates and has been deemed eligible to apply, the system will assess a candidate's desirability by ranking all applications received according to Comprehensive Ranking System (CRS) points and will provide each candidate with an overall CRS points score. Under the Express Entry system, CRS points will be awarded to candidates based on the following categories: "human capital factors" (including age, level of education, English or French language proficiency and qualifying Canadian work experience), "accompanying spouse or common-law partner factors" (the accompanying spouse's level of education, French or English language proficiency and Canadian work experience), "skills transferability factors" (combination of level of education, English or French language proficiency, Canadian work experience, foreign work experience and certificate of qualification) as well as "additional factors" (including a provincial nomination, qualifying offer of employment, Canadian educational credentials, having a sibling in Canada who is a Canadian Permanent Resident or Canadian citizen and French-language proficiency).

Following the assessment of each candidate's qualifications in the Express Entry system, candidates with the highest number of CRS points will receive an "Invitation to Apply" under one of IRCC's economic streams, thus enabling them to submit an application for Canadian permanent Residence within 60 days of the reception of an "Invitation to Apply".

As a general rule, since January 1, 2015, IRCC has held rounds of invitations approximately every month. The most recent "global" Express Entry draw occurred on September 19, 2018, and invited 3,500 candidates to apply for Permanent Residence with the CRS score of the lowest-ranked candidates invited being 441 CRS.

²³ This section is an extract taken from a prior draft article written by Isabelle Owston submitted to the Alliance of Business Immigration Lawyers (ABIL)' publishing team for an article published on February 1, 2017 on www.abil.com "Immigration Inside – News from the Alliance of Business Immigration Lawyers" Volume 13, No. 2A, February 1, 2017)

In addition to these economic immigration programs, Express Entry is currently being used by certain Canadian provinces as a gateway to apply for their respective Provincial Nominee programs.

2.1.1 Bridging Open Work Permits²⁴

Once an “Invitation to Apply” for Canadian Permanent Residence is received and a complete application is submitted to IRCC, a candidate who is already in Canada on a Work Permit may become eligible to file an application for a Bridging Open Work Permit (BOWP), if residing and working in a province other than Quebec, thus allowing the candidate to continue working for their employer or to begin employment with a new employer of their choice.

This Work Permit will be valid for 12 months and will allow a candidate to renew their current Work Permit (if expiring within 4 months) while their Express Entry Application for Permanent Residence is being processed.

2.2 Family Stream

A foreign national who is either married, in a common law or in a conjugal relationship with a Canadian citizen or a Canadian Permanent Resident can obtain Permanent Residence through a spousal sponsorship application submitted by their Canadian citizen or Canadian Permanent Resident spouse/common-law partner. While Canadian Permanent Residents wishing to sponsor their spouse must reside in Canada, Canadian citizens can initiate a spousal sponsorship application while residing abroad if they can demonstrate their intention to return to Canada upon their spouse becoming a Canadian Permanent Resident.

Pursuant to a pilot project currently in force, foreign nationals currently residing in Canada are eligible to apply for the much sought-after Open Work Permit thus enabling them to continue working for their employer or begin employment with the employer of their choice during the processing of the Sponsorship Application.

2.3 Other avenues in Canada

In addition to the economic stream, a foreign national may obtain Permanent Residence via other streams such as: the entrepreneur program, the self-employed program, the startup visa program or immigrate to Canada as a refugee.

2.4 Obtaining Permanent Residence in the Province of Quebec

Pursuant to the *Canada-Québec Accord relating to Immigration and Temporary Admission of Aliens*, the *Ministère de l'Immigration, Diversité et Inclusion* (MIDI) in the province of Quebec has the sole responsibility of determining the selection criteria for foreign nationals wishing to

²⁴ This section is an extract taken from a prior draft article written by Isabelle Owston submitted to the Alliance of Business Immigration Lawyers (ABIL)’ publishing team for an article published on February 1, 2017 on www.abil.com “Immigration Inside – News from the Alliance of Business Immigration Lawyers” Volume 13, No. 2A, February 1, 2017)

permanently immigrate to Quebec. The *Regulation Respecting the Selection of Foreign Nationals* sets out two (2) economic streams by which applicants can apply for a Quebec Selection Certificate (CSQ), enabling them to apply for Permanent Residence in Canada.

2.4.1 Le Programme de l'Expérience Québécoise (PEQ) – Quebec Experience Program

This economic program operates two (2) distinct streams: one for skilled temporary foreign workers and another for foreign students having graduated in Quebec from an eligible program of study. Foreign workers currently working in Quebec in valid status who have accumulated a minimum of 12 months of paid full-time work experience²⁵ and who possess an advanced-intermediate level of oral French are eligible to present a Quebec Selection Certificate (CSQ) application.

Similarly, applicants with valid status in Canada who have graduated in Quebec from an eligible program of study and who possess an advanced-intermediate level of oral French are eligible to present a CSQ application.

Both streams of applicants under the PEQ receive priority processing of their CSQ applications.

2.4.2 The Quebec Skilled Worker Program (QSWP)

The Quebec Skilled Worker Program (QSWP) is an alternative program for applicants who are currently outside of Quebec or who do not meet the eligibility criteria of the PEQ (most notably in terms of their French language abilities). Unlike the PEQ, the QSWP is a point-based system which awards points to applicants for a range of different factors including, age, level of education, field of study, French and English language abilities, work experience, length of stay in Quebec as well as having a family member in Quebec. Foreign nationals with accompanying spouses or common-law partners may also be awarded points based on their spouse's level of education, age and French language abilities.

On August 2, 2018, the new *Regulation Respecting the Selection of Foreign Nationals* came into force which has shifted the “first come first served” procedure of the program to a “Declaration of Interest” system in which Quebec Immigration will have the ability to “filter” immigrants based on pre-established criteria. While these invitation factors are not known with certainty at the moment, it is known that candidates whose employer - or potential employer - has secured a confirmation of their permanent job offer in favour of the applicant will, in all likelihood, be invited to Apply and receive priority processing of their applications.

2.4.3 Quebec Bridging Work Permits

In the same way open bridging Work Permits are issued to Permanent Resident applicants outside of Quebec, foreign nationals currently residing and working in Quebec pursuant to a valid Work Permit who have received a CSQ under either economic stream described above can apply to receive a bridging Work Permit allowing them to continue working for their current employer or begin employment with a new employer in Quebec while they await the processing of their

²⁵ It is worth noting that self-employed applicants are not eligible under the PEQ.

Permanent Residence application. However, unlike open bridging Work Permits for federal Permanent Residence economic applicants, Quebec bringing Work Permits require a job offer from a Quebec-based employer and are therefore “closed” Work Permits.

2.5 Other avenues in Quebec

In addition to the economic stream for skilled workers, the MIDI also operates an Entrepreneur Program, a Self-Employed Worker Program and a Quebec Investor Program. Quebec is the only province in Canada which currently operates an Investor Program.

3. CONCLUSION

Canada is a valued destination for foreign skilled nationals who aim to establish themselves and their immediate family members either temporarily or permanently, and provides opportunities for them to become Canadian Permanent Residents and, in time, Canadian citizens.