



Canadian Association of
Professional Immigration Consultants

L'Association Canadienne des
Conseillers Professionnels en Immigration

Ensuring Canadian Economic Security by Creating Pathways to Permanent Residency for NOC C and NOC D Workers



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About CAPIC

The Canadian Association of Professional Immigration Consultants (CAPIC) is the professional organization representing the interests of Canadian Immigration Consultants. The organization advocates for competency, ethical conduct, and consumer protection in the immigration consulting industry.

CAPIC's mission is to lead, connect, protect, and develop the profession, serving the best interests of its members. It is the only association recognized by the Government of Canada as the voice of Canadian immigration and citizenship consultants.

CAPIC is a major stakeholder consulting with federal and provincial governments and their respective departments (IRCC, CBSA, IRB, ESDC) on legislation, policy, and program improvements and changes.

CAPIC has over 3200 members and is comprised of Regulated Canadian Immigration Consultants and Canadian Immigration Lawyers.

Preamble

CAPIC is submitting this report in response to organizational observations regarding critical immigration pathway gaps for National Occupational Classification Skill Level C (NOC C) and Skill Level D (NOC D) temporary foreign workers (TFWs).

Executive Summary

It is CAPIC's position that the existing immigration pathways available to NOC C and NOC D temporary foreign workers (TFWs) are hampered by considerable disparities and limitations. While Provincial Nominee Programs (PNPs) have the mandate to attract and maintain NOC C and NOC D TFWs, these programs face insufficient allotments and allocation from the federal government. Municipal immigration programs face similar limitations in terms of scope. PNPs and municipal programs would benefit from greater federal allotment or concurrent federal programs for NOC C and NOC D applicants.

Federal Express Entry (EE) programs are not designed to prioritize specific labour market needs. By privileging education levels when examining potential immigrant pools, NOC C and NOC D labour is underserved and retention becomes increasingly difficult for municipalities, provinces, and regions. CAPIC understands the need for flexibility represented by NOC C and NOC D categories. By limiting potential pathways for NOC C and NOC D holders, Canada ensures certain TFWs will remain in essential occupations, such as agricultural production and food processing, throughout the duration of their time in Canada. However, as the pandemic has made clear, providing immigration pathways for a certain number of TFWs will ensure positions vital to the nation's economic security are filled, especially during periods of crisis and significant travel restrictions.

As the COVID-19 pandemic has illustrated, Canada relies on TFWs to maintain the production and service levels of important industries, such as food production and health care, during times of national crisis. By increasing immigration pathways for these workers, existing labour shortfalls can be alleviated, and essential industries strengthened. Additionally, by addressing gaps in permanent residency pathways for NOC C and NOC D TFWs, Canada can provide these essential workers with greater protections, including access to supports enjoyed by Canadian citizens.

This submission should be read in the context of Canada's need for greater economic security. One of the pandemic's most significant lessons is that globalization cannot be prioritized at the cost of Canada's food security and manufacturing capacity, two sectors of the economy that are heavily reliant on skilled labour. Canada's immigration programs are largely driven by economic imperatives. Our economic independence is, ironically, tied in no small measure to our ability to attract qualified temporary foreign workers and skilled immigrants. However, the distinction between low-skilled and high-skilled workers creates a false impression of the value of their contribution to our economy. The pandemic has shown clearly that some workers are more essential than others – especially in times of crisis – regardless of their skill level. We now see the importance of foreign workers in so-called 'low-skilled' occupations. This submission explores why we believe it is time to grant 'low-skilled' occupations under NOC C and NOC D a respectful share of the annual quota of economic immigration programs. Today, that share is so negligible that it calls into question how much we truly value these essential workers.

Background

NOC C and NOC D opportunities for TFWs vary considerably across the country. At the federal level, pathways to permanent residency for NOC C and NOC D candidates are extremely limited. The federal government currently offers several narrow pilot projects for NOC C candidates and partners with regions and provinces to deliver broader pilot projects (Rural and Northern Immigration Pilot and Atlantic Immigration Pilot) that apply to NOC C and NOC D candidates in addition to NOC 0, NOC A and NOC B. Even pilot programs that identify NOC C and NOC D occupations as essential to Canada's economic security, such as the Agri-Food Pilot, fail to acknowledge the specific experiences of NOC C and NOC D candidates when establishing eligibility parameters (Appendix 1). These programs also have annual limits that cap invitations well-below necessary levels. With no consistent or annual program specifically for these candidates, NOC C- and NOC D-eligible TFWs are dependent on an Express Entry system that, because of significant education and language requirements, remains permanently out of reach.

There are considerable discrepancies in regard to offerings for NOC C and NOC D workers at the provincial level. Some provinces have created narrowly-defined initiatives and pilots to address existing labour shortages. While these attempts create some opportunities for NOC C and NOC D workers, they also highlight the limitations of current immigration programs.

In June 2019, Prince Edward Island began a “NOC-C Initiative” as part of its Critical Worker Stream. NOC-C candidates with existing Canadian work experience and who are working in a PEI Priority Employment Sector are eligible to apply. At the same time, the province launched a Trucking Sector Pilot as an additional NOC-C candidate recruitment tool ([Critical Workers | Government of Prince Edward Island](#)). Similarly, Nova Scotia allows certain NOC C candidates from health care and trucking industries (NOC 3413 and NOC 7511) to participate in its Occupations in Demand in an attempt to eliminate provincial labour gaps ([Occupations in Demand \(novascotiaimmigration.com\)](#)). Saskatchewan has also developed a “Long-Haul Truck Driver Project” to meet its needs ([Long-Haul Truck Driver Project | Worker with Saskatchewan Work Experience | Government of Saskatchewan](#)). Ontario has partnered with the federal government to offer a permanent residency pathway for TFWs in intermediate skilled occupations at the NOC C level (see Appendix 2). Unfortunately, only 41 nominations were issued in 2019 ([2019 Ontario Immigrant Nominee Program Updates | Ontario.ca](#)) and just 50 nominations in 2020 ([2020 Ontario Immigrant Nominee Program Updates | Ontario.ca](#)).

When provincial programs are implemented, these programs still create access barriers for NOC C and NOC D workers. Provincial programs, while welcome, are limited in scope, temporary in nature, and rely on the Express Entry criteria, most notably the Canadian Language Benchmarks (CLB) 4 and an educational credential assessment (ECA), which are simply unattainable for many NOC C and NOC D candidates.

Problems with Existing Programs

Pandemic-Related Issues

The COVID-19 pandemic has had a devastating effect on the Canadian economy with significant job losses. The Canadian unemployment rate rose to a record 13.7 percent in May 2020 at the height of the pandemic's first wave, up from 5.6 percent in February 2020 ([The Daily — Labour Force Survey, May 2020 \(statcan.gc.ca\)](#)). When the second wave of COVID-19 restrictions across Canada once again shuttered businesses, unemployment rose to its highest levels since the previous summer. In January 2021, Statistics Canada reported an unemployment rate of 9.4 percent and a labour underutilization rate of 18.4 percent ([The Daily — Labour Force Survey, January 2021 \(statcan.gc.ca\)](#)). While considerably lower than the April 2020 underutilization rate of 36.2 percent, it represents an increase from fall 2020 numbers.

Despite the widespread nature of pandemic-related job losses, these losses have been disproportionately experienced by TFWs, especially visible minorities and women. TFWs are over-represented in essential occupations, such as health care. 36 percent of nurse aides, orderlies, and patient service associates are immigrants and 34 percent identify as visible minorities ([Impacts of COVID-19 on immigrants and people designated as visible minorities \(statcan.gc.ca\)](#)). Visible minorities are also more likely to work in the industries hardest hit by the pandemic. Prior to the pandemic only 9.4 percent of food and accommodation service workers did not identify as a visible minority ([Impacts of COVID-19 on immigrants and people designated as visible minorities \(statcan.gc.ca\)](#)). Additionally, these types of employment have dealt with considerably higher rates of infection and outbreak during the pandemic.

While first-wave unemployment rates peaked at 13.5 percent for Canadian born and long-term immigrants, recent immigrants experienced greater losses, as their unemployment rate peaked at 17.3 percent in April 2020 ([Impacts of COVID-19 on immigrants and people designated as visible minorities \(statcan.gc.ca\)](#)). Recent immigrant women faced unemployment rates 5 percent higher than Canadian-born women ([Impacts of COVID-19 on immigrants and people designated as visible minorities \(statcan.gc.ca\)](#)). Providing more safeguards for NOC C and NOC D employees then, is also a matter of racial and gender equality.

These job losses have been complicated by differing approaches to NOC C and NOC D workers as a result of the pandemic. In response to the ongoing crisis, several provinces have moved to limit applications from NOC C and NOC D candidates. Alberta has limited NOC C and NOC D opportunities during the pandemic. The province added 475 occupations, including jobs in food processing, and transportation, to the Alberta Immigrant Nominee Program's (AINP) "refusal to process list" in November 2020 (<https://www.alberta.ca/ainp-changes-due-to-covid-19.aspx>).

In March 2020, the BC Provincial Nominee Program (BC PNP) excluded 31 NOC C and NOC D hospitality, tourism, retail, and personal services occupations from invitations to apply (Appendix 3). While the temporary suspension was lifted in February 2021, the almost year-long wait disadvantaged both businesses in the province and TFWs.

While the majority of businesses in these sectors faced periods of closure at the onset of the pandemic, many businesses restructured and reopened, in adherence with provincial safety protocols, and helped stimulate British Columbia's economy. Restaurants pivoted

to outdoor dining, delivery, and take out. Retail businesses reduced in-store customer capacity while enhancing online shopping infrastructure. Personal services modified appointment schedules and introduced stringent cleaning protocols between customers. The ongoing exclusion of hospitality, retail, and personal service NOCs in British Columbia jeopardized the provincial economy and the status of TFWs.

PNP Stream - Only Path to Permanent Residency, Potential for Exploitation

Currently, the only route to permanent residency for NOC C and NOC D workers is through a designated PNP stream. Typically, this is a long and arduous process to PR status. Applicants often need at least one year of Canadian work experience to apply, followed by a 6-month wait for the PNP to process their application, and then an additional 22 months for IRCC to process the PR application.

Applicants must remain employed in the same capacity otherwise they run the risk that the PNP certificate will be cancelled or withdrawn, even at the very last stage of the PR application processing. Applicants may feel trapped, forced to remain in same job for the duration of the application process, which will be at least 3.5 years, creating an employer-employee power imbalance. As this is the only route to PR for NOC C and NOC D applicants, this increases the potential for exploitation as TFWs do not want to risk losing their PNP certificate. While the immigration system has policies to limit worker exploitation, many TFWs do not want to apply for the work permit for vulnerable workers because they feel their situation does not meet the threshold for exploitation and proof of exploitation is difficult to obtain.

PNPs do not process applications if the applicant is under implied status or does not have a valid work permit. In practice, this means that if a PNP is taking longer than expected to process the application, the application will be cancelled or refused if the TFW (and employer) are unable to extend the work permit. The difficulty of extending a work permit has been exacerbated by COVID-19. The refusal to process guidelines for areas of high unemployment, calculated at 6 percent or higher, now apply to every economic region in the country as a result of the pandemic ([Refusal to process a Labour Market Impact Assessment application - Canada.ca](#)). This is further complicated in Alberta, which has a refusal to process list that excludes a variety of occupations including home support workers and educational assistants ([Alberta Opportunity Stream – Eligibility | Alberta.ca](#)). Given the essential status of the work performed by many TFWs and the dangers of holding these positions during the pandemic, the delays and refusals experienced by TFWs illustrates the fundamental disregard the system has for their vital contributions.

The current PR programs are designed with the mind-set that “high-skilled” workers are able to make more significant economic impact on the Canadian economy than low-skilled workers; the perceived economic impact of NOC C and NOC D workers has been minimized and deemed less significant. The PR programs that have been created for NOC C and NOC D applicants are somewhat disingenuously targeted at “low-skilled” workers. They appear to be designed for “skilled” foreign nationals currently working in Canada at a low-skilled capacity.

Language Requirements

PNPs have established a CLB criteria of 4.0 for all 4 components (listening, speaking, reading, and writing) of the language test. This high-level of efficiency can be difficult to obtain for TFWs whose first language is not French or English, especially for the reading and writing components. While the difficulty of this requirement results in a bias in favour of English- and French-speaking TFWs, even native speakers employed at this level can have a hard time reaching the CLB 4.0 level for all 4 abilities. Many are paid relatively low wages and work as many hours as possible, subsequently leaving little time to engage in language training. Furthermore, access to ESL and FSL training is a concern. Settlement agencies only provide IRCC-subsidized language training to new permanent residents not to TFWs. Anecdotally, some unions receive IRCC funding to offer language training to members, but many NOC C and NOC D workers are not unionized and, in the case of agricultural workers, are often located remotely.

Many NOC C and NOC D workers are employed in public service occupations and communicate in French or English with the clients they serve or patients they care for on a daily basis. Most employers would not make an offer of permanent employment to a TFW, a requirement for most NOC C and NOC D streams, if the worker did not possess the language capabilities to adequately perform their job. When assessing language requirements for NOC C and NOC D candidates, some value should be attached to an employer declaration that a TFW is able to communicate sufficiently in English or French.

Education Requirements

PNP streams for NOC C and NOC D require the applicant to have completed secondary school as a minimum education requirement. In some provinces, such as Alberta and Ontario, PNP applicants will have to provide an Educational Credential Assessment (ECA) to prove their education is equivalent to high school in Canada. There are two issues with these requirements:

- In many countries, secondary school finishes at the Grade 10 or Grade 11 level, instead of the Grade 12 level, which means those TFWs would be ineligible. In some countries where secondary school ends at Grade 10 or Grade 11, applicants often continue their education beyond secondary school in occupation- or trade-specific training. Once occupational specific education has been obtained, these workers can be considered for NOC B positions. Therefore, this requirement is not genuinely targeting NOC C and NOC D workers.
- Obtaining an ECA can be a cumbersome process, especially for applicants whose first language is not English or French. While post-secondary institutions have more robust administration and record-keeping, requesting secondary schools, some located in rural or remote locations, to complete forms and send academic records is impractical. To complete this task, these secondary schools would have to overcome language barriers and maintain academic records for years, or decades in some cases. Schools have a finite existence and when a school closes or moves locations, records can be lost or damaged. This requirement seriously disadvantages TFWs who have secondary school credentials, but are unable to prove it to PNP standards.

Recommendations

CAPIC recommends the following actions in regard to improving conditions for NOC C and NOC D permit holders:

- **Increased allotments.** Increase provincial and municipal allotments so that PNPs and specific municipal programs can address both regional labour needs and provide permanent residency pathways for essential NOC C and NOC D workers.
- **Federal program for NOC C and NOC D PR as part of the Immigration Levels Plan.** Create a federal program for NOC C and NOC D workers to make up 10-15 percent of the immigration targets outlined in the revised 2021–2023 Immigration Levels Plan ([Government of Canada announces plan to support economic recovery through immigration - Canada.ca](https://www.canada.ca/en/government/public/government-announces-plan-to-support-economic-recovery-through-immigration)).
- **Additional pilot programs with PR pathways.** Create additional pilot projects offering specific NOC C and NOC D essential professions pathways to permanent residency with language and education requirements better reflecting the expertise of NOC C and NOC D candidates.
- **Subsidized language programs for TFWs.** Create IRCC-subsidized ESL and FSL programs specifically for TFWs that consider existing barriers, such as location, in terms of accessibility.
- **Modify CLB language requirements for NOC C and NOC D.** Adapt the rigid CLB 4 language requirements to acknowledge the “on-the-job” language proficiency of many TFWs. Attach a predetermined value (points) to an employer declaration that the TFW is able to communicate sufficiently in English or French. To protect program integrity, this declaration could be considered in combination with language testing that demonstrates progress. For example, TFWs would provide proof of progress by completing 2 language tests taken 6 months apart that indicate improvement.
- **Work permit extensions and renewals.** CAPIC recommends the prioritization and acceleration of work permit extensions and renewals for specific NOC C and NOC D codes (particularly in food production and health care) so that labour gaps are eliminated and domestic production and capacity are safeguarded, maintaining Canada’s economic security.
- **Amend immigration forms to expedite processing.** Adding NOC codes to form IMM5710 allows officers to identify NOCs and expedite as needed.

Conclusion

The pandemic has illustrated that NOC C and NOC D workers possess highly valued skills that are integral to ensuring Canada’s economic security. However, their essential status is not reflected in their treatment as NOC C and NOC D workers. The spouses of TFWs are not eligible for an open work permit, NOC C and NOC D workers have limited options to obtain permanent residency, and they face considerable delays in terms of application processing. To face such obstacles when these workers have served diligently and with great personal risk in essential occupations for over a year in

pandemic conditions, undermines Canada's position that it is a country that welcomes immigrants and champions equality.

One of the results of the pandemic is a gradual acknowledgement of the indispensable roles NOC C and NOC D TFWs play in Canada's economic security. Essential workers have been exempted from biometric requirements and in some cases have had applications and work permits fast-tracked for approval. To guarantee Canada's economic recovery from the pandemic is successful and stable, it is imperative that permanent and robust pathways are created for NOC C and NOC D essential workers.

Appendix 1 - Agri-Food Pilot Eligible Occupations

Meat product manufacturing (NAICS 3116):

NOC B 6331 – Retail butchers

NOC C 9462 – Industrial butchers

NOC B 8252 – Farm supervisors and specialized livestock workers

NOC D 9617 – Food processing labourers

Greenhouse, nursery and floriculture production, including mushroom production (NAICS 1114):

NOC B 8252 – Farm supervisors and specialized livestock workers

NOC C 8431 – General farm workers

NOC D 8611 – Harvesting labourers

Animal production, excluding aquaculture (NAICS 1121, 1122, 1123, 1124 and 1129):

NOC B 8252 – Farm supervisors and specialized livestock workers

NOC C 8431 – General farm workers

Source: [Agri-Food Pilot: Eligible industries and occupations - Canada.ca](https://www.canada.ca/en/immigration-refugee-citizenship/services/immigration-and-refugee/eligibility-requirements/eligibility-requirements-agri-food-pilot-eligible-industries-and-occupations.html)

Appendix 2 - OINP Employer Job Offer: In-Demand Skills Stream Eligible NOC C and NOC D Occupations

Positions eligible anywhere in Ontario:

- NOC 3413 – nurse aides, orderlies and patient service associates
- NOC 4412 – home support workers and related occupations, excluding housekeepers
- NOC 7441 – residential and commercial installers and servicers
- NOC 7511 – transport truck drivers
- NOC 7521 – heavy equipment operators (except crane)
- NOC 7611 – construction trades helpers and labourers
- NOC 8431 – general farm workers
- NOC 8432 – nursery and greenhouse workers
- NOC 8611 – harvesting labourers
- NOC 9462 – industrial butchers and meat cutters, poultry preparers and related workers

Positions eligible outside the Greater Toronto Area (GTA):

- NOC 9411 – machine operators, mineral and metal processing
- NOC 9416 – metalworking and forging machine operators
- NOC 9417 – machining tool operators
- NOC 9418 – other metal products machine operators
- NOC 9421 – chemical plant machine operators
- NOC 9422 – plastics processing machine operators
- NOC 9437 – woodworking machine operators
- NOC 9446 – industrial sewing machine operators
- NOC 9461 – process control and machine operators, food, beverage and associated products processing
- NOC 9523 – electronics assemblers, fabricators, inspectors and testers
- NOC 9526 – mechanical assemblers and inspectors
- NOC 9536 – industrial painters, coaters and metal finishing process operators
- NOC 9537 – other products assemblers, finishers and inspectors

Source: [OINP Employer Job Offer: In-Demand Skills stream | Ontario.ca](#)

Appendix 3: List of 31 Occupations Excluded from Invitations to Apply BC PNP

The listed occupations were temporarily suspended on March 30, 2020. The temporary suspensions were lifted on February 16, 2021.

- 0621 - Retail and wholesale trade managers
- 0631 - Restaurant and food service managers
- 0651 - Managers in customer and personal services, n.e.c.
- 3236 - Massage therapists
- 6211 - Retail sales supervisors
- 6311 - Food service supervisors
- 6321 - Chefs
- 6322 - Cooks
- 6341 - Hairstylists and barbers
- 6421 - Retail salespersons
- 6511 - Maîtres d'hôtel and hosts/hostesses
- 6512 - Bartenders
- 6513 - Food and beverage servers
- 6562 - Estheticians, electrologists and related occupations
- 6564 - Other personal service occupations
- 6611 - Cashiers
- 6621 - Service station attendants
- 6711 - Food counter attendants, kitchen helpers and related support occupations
- 6722 - Operators and attendants in amusement, recreation and sport

Source: [BC-PNP-Archived-News_2020.pdf.aspx \(welcomebc.ca\)](#)



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