



June 3rd, 2014

Labour Migration in Canada

The Evolution of the Immigration System in Canada

Most immigrants who come to Canada are looking for a path to permanent resident status and eventually citizenship. Because of the nature and features of various Canadian immigration programs over the years, large backlogs in case processing centers developed to the extent that to apply for the permanent resident status, meant going through a process that would take anywhere from 18 months to three years or more in other cases. Neither applicants nor employers can realistically wait that long. As a result, the Temporary Foreign Worker Program in Canada became the 'foot in the door' that most people needed in order to start a new life in Canada, by working in Canada on a work permit while going through the permanent resident process. This way, employers had their needs for skilled workers satisfied within a few months; employers were able to determine the skills and abilities of the foreign worker over the course of a few years; and the foreign worker was able to gain Canadian experience and support themselves and their families while their application for permanent resident status was being processed.

The Permanent Residence process, which was established for bringing skilled workers to Canada, relied on a grid system where points were assigned for various criteria (i.e. age, occupation, experience, language skills, and education). Despite a person's ability to meet the point threshold, this did not always translate into a job in Canada. Many people who immigrated this way were disappointed, disillusioned and often ended up doing jobs far beneath them and inconsistent with their education/qualifications, and their skill sets and abilities.

The Temporary Foreign Worker Program alleviated these issues to a great extent, in cases where people came initially on Temporary Work Permits and then over the course of a few years, transitioned to Permanent Resident status and ultimately citizenship. Unfortunately, there appears to have been abuse of the Temporary Foreign Worker Program as highlighted in the media over the last year. This has led to political decisions being made and resulting in significant restrictions on the Temporary Foreign Worker Program and therefore, the ability of employers to bring foreign workers in Canada. Much of the criticism, if not all of it, has been directed towards the low skill job market serviced by the Temporary Foreign Worker Program such as restaurant workers, hospitality industry workers and so forth.

As a result, Service Canada has recently announced a temporary moratorium for processing of LMO applications related to restaurant and service occupations. Some employers continue to have a need to hire low skilled workers (i.e sewing machine operators, kitchen helpers) because



they cannot find Canadian Citizens or permanent residents to perform in these occupations. In other words, the Canadian government has set several barriers for the employers when it comes to hiring foreign workers. It has been suggested that the Government should not give an immigration advantage to foreign workers who are already working in Canada. In other words, the foreign workers residing within the country, must be clearly notified that they must leave Canada after having worked in the country for a period of 2-4 years. The reasoning behind this, is that some individuals may abuse the immigration system, and they do not perform genuine work in Canada. Their purpose, in some cases, is to simply immigrate to Canada, and as a result, they may become involved in illegitimate employment opportunities in order to achieve this goal. If, however, the foreign workers be fully informed that their work-permit status in Canada will not provide any advantage for permanent immigration, they will engage in a genuine employment relationship. The main emphasis, in view of the Labour Migrant Situation in Canada, should be placed on helping employers to hire foreign workers (especially low-skilled ones) and to preventing the foreign workers from abusing the immigration system. This may be a viable solution.

As a result of the media attention and the political reaction, the public's perception seems to be focused on the idea that foreign workers are taking jobs from Canadians. In reality, there is a *large* part of the Foreign Worker Program dedicated to high skilled occupations at the management, professional and technical levels, that has long been ignored by the media, politicians and the public. These high skilled positions that are filled by foreign workers are critical to the wellbeing and the growth of the Canadian economy. Occupations in many industries that require high skilled individuals with appropriate education and experience in their particular field, result in the creation of jobs for Canadians by helping companies fill their need for high skilled occupations. This, in turn, enables the company to grow and prosper and results in not only the filling of the current jobs on the market and but also in the creation of new jobs for Canadians. Many of these highly skilled workers also pass on their knowledge and expertise to Canadian workers, and therefore strengthen the Canadian workforce.

Various concerns of the Labour Migrant Situation: Barriers Eradicated

The recent restrictions to the Temporary Foreign Worker Program imposed by the Government, often with little warning and short notice, have made it extremely difficult for Canadian industries to fill their human resource needs in high skilled occupations. Due to the restrictions and the complexity of the current rules for obtaining a Labour Market Opinion to support the hiring of a skilled temporary foreign worker, many companies are now trying to find other ways to satisfy their human resource needs without using the Temporary Foreign Worker Program. Some companies may choose not to relocate in Canada in favour of more accommodating environments in the United States; Some may choose not to grow or expand until they solve their skilled resource issues; etc.



There also remains the potential for serious economic impacts on the Canadian economy from the tight restrictions on the Temporary Foreign Worker program as it relates to bringing skilled technicians and workers to Canada for very short periods of time to repair industrial machinery and equipment, for an example. One of the major changes to the Temporary Foreign Worker Program is the aspect of an Employer Compliance Review (ECR) (audit) which is triggered by an LMO application by an employer and can result in the freezing of all LMO applications by that employer until the ECR has been completed. Current processing times for an ECR seem to vary between 3 to 6 months, which is completely unreasonable for employers and foreign workers who might choose to undertake other jobs opportunities instead of relocating in Canada. For instance, if a work permit is delayed for an industrial technician to make necessary repairs because of an ECR, what impact might this have on the Canadian business who needs their machinery, or that needs the equipment to be repaired by a skilled expert familiar with that particular equipment?

The Low Skilled Temporary Foreign Worker Program is said to have resulted in depressed wages for Canadians and to have deprived Canadians of jobs; and subjected foreign workers to abuse from employers. Several questions still remain however: how much abuse, and will Canadians really come forward and fill those low skilled positions? This is probably more likely in larger centers and less likely in more remote parts of the country. The Low Skilled Program should be there to fill short-term temporary needs and should, possibly be applied in more remote areas.

The High Skilled Temporary Foreign Workers Program is quite different, in the sense that it is designed to fulfill the high skill needs of employers; wages paid are usually the same as those which Canadians receive or higher, depending on the applicant's skill level and expertise; and abuse by employers is unlikely because High Skilled Temporary Foreign workers are more educated, more sophisticated and not taken advantage of easily. The High Skilled Temporary Foreign workers bring skill sets to international corporate leaders in a variety of fields, which in turn enables Canadian businesses to meet critical skill needs; to train Canadians in these areas; to help companies grow; and therefore to help maintain and create jobs for Canadians.

The Future of the Immigration System in Canada

With the uptake in the PNP, advent of CEC and the creation of ministerial instructions there are now multiple pathways for those with Canadian work connections to obtain permanent residence, but less and less opportunity for those without employment opportunities in Canada. This trend appears to be part ideological, and part pragmatic. As conservatives tend to speak for free market forces, the move to more and more reliance on employer selection is a way for the government to delegate responsibility to the private sector. Pragmatically, the more new Canadians that have local education, and local work experience when they arrive, the lesser the need for Settlement Services on economic immigrants.



The proposed new Permanent Resident application management system called *Express Entry*, is to be implemented in January 2015. It involves applicants with an interest in moving permanently to Canada in order to provide an outline of their skills and abilities in a particular occupation and then being invited to apply for permanent residence if the government can match them with an employer in need of those particular skill sets. The Government indicates that such applications will be processed within six months. However, this seems rather optimistic given the supporting documents that will no doubt be required such as: police certificates, educational equivalency documents, language testing, amongst others, all of which can take several months to obtain.

Furthermore to this change, a pattern can also be observed in the [EOI summary report \(pg 12\)](#), which states the names of the countries from which employers choose workers for the TFW program, and compares them to the top countries that CIC is selecting for their PR program. Employers "select" from these countries often because they have a location there, or because there is a Free Trade Agreement allowing more options for work permits. All but Mexico are visa exempt, so companies using these source countries can have workers arrive as quickly as a week or two, as opposed to waiting for several for LMO processing and then for overseas visa offices to process work permit applications, medical exams and so forth. Employers, however, remain reluctant when it comes to offering permanent positions to people that they haven't yet met. Having them arrive on work permits and then testing them out seems to be the preferable option. Even on the intra-company transfers, it typically takes 6-12 months before the employer has decided whether this is a long term hire, or a short or medium term secondment.

It is therefore positive that opportunities will still be granted to individuals with the Temporary Work Permits to apply for Permanent Resident status under the new system, as this seems to be the preferable route. In this case the potential immigrants will already be working for the employer on a work permit, they will have had time to get to know each other and evaluate the situation and to determine the possibilities of a long-term employer/employee relationship. This scenario will depend in the end, on a well-managed Temporary Foreign Worker Program.

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