



NEWSLETTER – Fall 2008

BREAKING NEWS IN EMPLOYMENT-RELATED IMMIGRATION

On September 17th Citizenship and Immigration Canada began accepting applications under the much anticipated new economic immigration class, appositely called the “Canadian Experience Class” (the “CEC”). The CEC is designed to keep Canada competitive in the international labour marketplace by providing an expedited route to Canadian permanent resident status to applicants who have recent experience studying and/or working in Canada.

The implementation of the CEC is expected to bring numerous benefits, not the least of which includes increasing the attractiveness of a Canadian post-secondary education to foreign students and increasing the pool of available and diverse skilled workers who have been trained in Canada. Citizenship and Immigration Canada’s stated goal for the year 2008 is to admit between 10,000 and 12,000 permanent residents under the CEC program.

Availing itself of the benefits of keeping foreign students in Canada, the government’s introduction of the CEC allows qualified foreign students an opportunity to live and work in the country in which they have invested time and money and where they have established social networks. Where foreign students have received their Canadian education in areas that are underrepresented in terms of

immigrant, or indeed foreign student, populations, it is hoped that such students will elect to settle in the areas that are familiar to them, rather than seeking out the larger more widely settled urban centres. For these applicants, it is anticipated that there will be less of a need for the government to provide support for settlement and integration services.

Similarly, for workers who have recent work experience in Canada, the thought is that there already exists a familiarity with Canadian society and work expectations as well as proficiency in English and/or French. The expedited path to permanent residency will appeal to such workers who may have established themselves in Canada but who cannot either obtain a Provincial Nomination or to otherwise reach the requisite 67 point threshold to be eligible for processing under the Skilled Worker Category. Thus, the CEC now represents a very real and attractive option by which to pursue Canadian permanent residency.

Governed by the *Immigration and Refugee Protection Regulations*, S.O.R./2002-227, as amended, applications processed under the CEC will be adjudicated on a pass or fail basis. A qualified candidate is one who:

- Does not intend to reside in the Province of Quebec;

- Is a temporary foreign worker with at least two years of full-time Canadian work experience or is a graduate of a Canadian post-secondary institution with at least one year of full-time Canadian work experience;
- Has had the proper permissions in hand while attaining such experience working or studying in Canada; and
- Makes an application for permanent residency under the CEC while still working in Canada or within one year of leaving his or her employment Canada.

A successful applicant will have gained the requisite work experience in an occupation that is classed as being within the National Occupational Classification (“NOC”) Skill Type O, A, or B (namely managerial, professional, or technical or skilled trade occupations, respectively) and language skills in English or French at levels set in relation to the said Skill Type.

While the arrival of the CEC undoubtedly provides an advantage to those who qualify, critics point out that immigration processing levels will not be increased, rather CEC applications processing will be accommodated within existing levels. Expedited processing will apply, as it does

with applications under the various Provincial Programs and those supported by arranged employment opinions. The applicants, however, who will be most negatively affected, are those who, having amassed the requisite points as a result of their education, experience, adaptability, and age, among other things, apply under the Skilled Worker category. Additionally, the CEC is not open to all students; it is not open to those who have no work experience and to those lower skilled workers whose occupations fall within NOC Skills Categories C or D, and who, despite their lower skills classifications, are critical and in high demand in the Canadian labour market.

Despite these criticisms which, in effect, might positively be viewed as a roadmap for suggested improvements to the program, the CEC represents a shift to a system that relies more appropriately on actual employability, rather than on a points-based system that attempts to predict same. It is a welcome new option for Canadian employers and to those tens of thousands of foreign students and workers who seek to remain in Canada and who, it is hoped, will contribute positively to the society in which they have lived, worked and studied.

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If you have questions regarding the issues raised in this newsletter and how they may affect you or your company, please do not hesitate to contact any lawyer at our firm.

Lawyer contact information can be obtained by contacting us at (604) 806-0922 or visiting our website at www.ropergreyell.com.

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