

GUBERMAN GARSON LLP IMMIGRATION LAW

Immigration Update – Late Fall 2016



Welcome to the Guberman Garson LLP **Immigration Update**. Our goal is to provide you with on-going information relating to immigration issues.

JOIN US FOR A LIVE IMMIGRATION UPDATE TELEPHONE CONFERENCE **Thursday, December 1st, 2016 at 1:00pm EST**

On December 1st, 2016, a panel of Guberman Garson LLP Canadian and U.S. immigration lawyers will present on current Canadian, U.S. and the EU-Canada Comprehensive Economic and Trade Agreement (“CETA”) immigration updates and answer your questions. For further details and call-in information, please email us at immlaw@ggilaw.com to sign up.

MINISTER JOHN MCCALLUM ANNOUNCES CHANGES TO CANADA’S EXPRESS ENTRY SYSTEM

On November 14th, 2016, Canada’s Minister of Immigration, Refugees and Citizenship Canada, John McCallum, announced that significant changes to the Express Entry System are to take effect on November 19th, 2016. The Minister’s Office notes the intent of these changes are to better attract highly-skilled candidates to Canada, including those without a job offer, as well as former international students.

The most significant change relates to job offers from Canadian employers. Where previously a valid job offer supported by a Labour Market Impact Assessment (LMIA) awarded 600 points under the Comprehensive Ranking System, points for valid job offers will be reduced to 50 for most candidates, with the exception of those in senior managerial positions (NOC 00 occupations) who will receive 200 points.

Further, where all job offers previously required an LMIA, an LMIA exemption is being introduced for valid job offers to candidates who hold employer-specific LMIA-exempt work permits, such as work permit holders under the North American Free Trade Agreement, Mobilité Francophone and Significant Benefit guidelines or intra-company transferees. Additional requirements will need to be met, including at least one year of continuous work experience with the employer who is both specified on the work permit and providing the job offer.

To the benefit of former international students, additional points are being introduced for Canadian education credentials. Candidates will be awarded 15 points for a Canadian post-secondary credential of 1-2 years, and 30 points for a Canadian post-secondary credential of 3 years or more, including a Master's, entry to practice professional, or Doctorate degree.

Procedurally, candidates will now have 90 days, rather than 60 days, to submit an application for permanent residence upon receipt of an Invitation to Apply. Further, language test results and Educational Credential Assessment (ECA) results will be required at the time an Express Entry profile is submitted to the Express Entry pool.

THE CANADA-EU COMPREHENSIVE ECONOMIC AND FREE TRADE AGREEMENT: CANADIAN IMMIGRATION

Recently, after several years of negotiations, Canada's Prime Minister Justin Trudeau and representatives of the European Union signed the CETA. CETA is a comprehensive agreement that deals with a large number of issues connected with trade and investment. It covers issues such as trade in goods, services, investment, intellectual property and government procurement. In addition, there is a chapter dedicated to immigration provisions.

At this time, the CETA proposed implementation is thought to be sometime in 2017.

CETA will have many implications for the entry of temporary workers into Canada. Specifically, CETA addresses the following: business visitors, investors, intra company transferees, and professionals. As well, there are commitments involving reciprocity and professionals listed on an occupational basis. CETA does not involve matters related to permanent immigration or citizenship. Some of the highlights include the following:

- Commitments for the mobility of professionals is taken by sectors instead of occupations;
- There are specific requirements applicable to professionals (for example education, contract length and experience);
- Those wishing to enter as key personnel will not face economic needs tests (such as a Labour Market Impact Assessment "LMIA"). Key personnel are defined as those who are entering to establish a business (persons working in a managerial or specialist position who are responsible for setting up an establishment or investment); investors; and intra-corporate transferees (which include senior personnel, specialists and graduate trainees).
- Currently government policies allows for intra-corporate transferees to obtain work permits, but graduate trainees can only enter as visitors if they are training and any production of good or services is incidental to the training. Under the CETA, graduate trainees will be able to stay for up to a year (or less if there is a contract that is less than a year).
- Professionals who are employees of enterprises can enter for a period of up to twelve months if they have been an employee of the employer for at least a year, have at least three years of professional experience in a related field, possess a university degree or a qualification demonstrating knowledge at an equivalent level, professional qualifications as required, and a license if necessary. The permitted length of stay will be no more than twelve months in any twenty four month period.
- Self-employed professionals will be eligible for entry as temporary workers (without an economic needs test, such as an LMIA) if they have a service contract for a period not exceeding twelve months. To qualify, they must possess at least six years of professional experience in the sector of activity which is the subject of the contract, possess a university degree or qualification demonstrating knowledge of an equivalent level and professional requirements, and

a license where required. The permitted length of stay is a cumulative period of no more than twelve months in the lesser of any twenty four month period or the duration of the contract;

- Engineering and scientific technologists who have completed a three year post-secondary degree, will also be allowed to enter as temporary workers subject to the same requirements as professionals. They also will be able to stay for between twelve months and twenty four months.

As we continue to gain further insights into the immigration implications for CETA we will provide you with updates.

As always, if you have questions, concerns or would like to schedule a call to discuss these changes, please contact your immigration lawyer at Guberman Garson LLP Immigration Law (416 363 1234).

This document is for general information only and should not be construed as specific legal advice.