



Blaneys on Immigration

This newsletter is designed to highlight new issues of importance in immigration related law. We hope you will find it interesting, and welcome your comments.

Feel free to contact any of the lawyers who wrote or are quoted in these articles for more information, or call the head of our Immigration Law Group, Ian Epstein at 416.593.3915 or iepstein@blaney.com.

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OPEN WORK PERMITS WILL BE ISSUED TO PROVINCIAL NOMINEES UNDER THE FEDERAL SKILLED WORKER BACKLOG REDUCTION PILOT

Henry J. Chang

As previously reported in the April 2012 issue of *Blaneys on Immigration*, when Citizenship and Immigration Canada ("CIC") announced that it was cancelling the backlog of Federal Skilled Worker ("FSW") cases that were filed prior to 2008, several Provincial Nominee Programs ("PNPs") began offering some of those applicants the opportunity to apply for a provincial nomination under CIC's FSW Backlog Reduction Pilot (the "FSW Pilot"). The PNPs in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, Newfoundland and Labrador and Northwest Territories were given the opportunity to identify FSW backlog applicants for possible nomination based on the applicant's province of intended destination and work experience.

Some of the participating PNPs requested that provincial nominees identified through

the FSW Pilot, but who did not yet have a job offer, be eligible for province-specific open work permits, in order to facilitate faster labour market entry while their permanent resident processing was pending. On November 5, 2012, in response to these requests, CIC issued Operational Bulletin 470 ("OB 470").

According to OB 470, as of November 5, 2012, eligible foreign nationals who have been nominated by a participating PNP under the FSW Pilot may now apply for one of 1,500 province-specific open work permits that are available. The issuance of the province-specific open work permit will not be conditional upon the nominated applicant having submitted an application for permanent residence, based on his or her nomination certificate. The issuance of the nomination certificate itself will allow the foreign national to apply for the work permit.

In order to qualify for one of the province-specific open work permits, applicants must meet the following criteria:

“CIC [Citizenship and Immigration Canada] estimates that it will be returning fees to 100,000 principal applicants on behalf of themselves, their spouses and dependants.”



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1. The applicant must already be a participant in the FSW Pilot; and
2. The work permit application must be accompanied by a letter of support from the nominating province that:
 - Confirms the applicant is being nominated under the FSW Backlog Reduction Pilot; and
 - Indicates the WP will only be valid for work in the nominating province.

Work permits issued under the FSW Pilot are valid for a maximum of two years. However, because they are intended only to facilitate faster labour market entry while the foreign national's permanent resident application is pending, extensions beyond the initial two year validity period will not be permitted. ■

CITIZENSHIP AND IMMIGRATION CANADA TO REFUND FEES FOR CANCELED FEDERAL SKILLED WORKER APPLICATIONS

Catherine Longo

The *Jobs, Growth and Long Term Prosperity Act* (the “Act”), came into force on June 29, 2012. Pursuant to the Act, Citizenship and Immigration Canada (“CIC”) canceled the processing of Federal Skilled Worker (“FSW”) applications which were received before February 27, 2008, and

for which there had been no decision by an immigration officer before March 29, 2012. We noted in our April 2012 issue that CIC would be engaging in a process of returning fees to applicants affected by the cancellations.

CIC has now announced the process by which these fees will be returned. CIC estimates that it will be returning fees to 100,000 principal applicants on behalf of themselves, their spouses and dependants. FSW applicants who believe they may be affected by the cancellations are asked to confirm their contact information by completing and returning the *Return of Processing Fee, Right of Permanent Residence Fee or Right of Landing Fee Form* (IMM 5741) to CIC. Interest will not be paid on the returned fees.

FSW applicants who are unsure whether or not they are affected by the cancellations should also complete and submit the above form. CIC will advise whether or not their application is affected. However, if the application was refused by an immigration officer before the Act came into force on June 29, 2012, the application fee will not be returned.

FSW applicants cannot request to have the fee put towards a new application, but rather must submit a new application in its entirety with a new filing fee. It should be noted that, as of July 1, 2012, CIC has temporarily



stopped accepting applications under the FSW Program. In addition, once CIC begins accepting FSW applications again, new criteria will apply. Applicants who can no longer qualify under the new criteria may wish to consider other permanent residence options, if available. ■

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Before coming to Blaney's, Catherine was a member of the Correctional Law Project. She provided legal advice and representation to federal inmates at Penitentiary Disciplinary Court and National Parole Board hearings.

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Blaneys on Immigration is a publication of the Immigration Law Group of Blaney McMurtry LLP. The information contained in this newsletter is intended to provide information and comment, in a general fashion, about recent cases and related practice points of interest. The information and views expressed are not intended to provide legal advice. For specific legal advice, please contact us.

We welcome your comments. Address changes, mailing instructions or requests for additional copies should be directed to Kylie Aramini at 416 593.7221 ext. 3600 or by email to karamini@blaney.com. Legal questions should be addressed to the specified author.