



# Blaneys on Immigration

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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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*“On January 2, 2013, Citizenship, Immigration and Multiculturalism Minister... announced that CIC would begin accepting applications under the [Federal Skilled Trades Program], effective immediately.”*

**FEDERAL SKILLED TRADES PROGRAM BEGINS ACCEPTING APPLICATIONS**

**Henry J. Chang**

On August 18, 2012, Citizenship and Immigration Canada (“CIC”) published proposed regulatory amendments (the “Proposed Regulations”) in the Canada Gazette, which (once enacted) would create a Federal Skilled Trades Program (“FSTP”).<sup>1</sup> On January 2, 2013, Citizenship, Immigration and Multiculturalism Minister Jason Kenney (the “Immigration Minister”) announced that CIC would begin accepting applications under the FSTP, effective immediately.

Eligible occupations are split into two groups. Group A includes 17 jobs with a moderate labour market need while Group B includes 26 in-demand jobs. These occupations are listed below along with the 2011 *National Occupational Classification* (“NOC”)<sup>2</sup> code:

- a) Group A – Jobs with sub-caps of 100 applications each (and their corresponding 2011 NOC code):
- 1) 7202 Contractors and supervisors, electrical trades and telecommunications occupations;

- 2) 7204 Contractors and supervisors, carpentry trades;
- 3) 7205 Contractors and supervisors, other construction trades, installers, repairers and servicers;
- 4) 7271 Carpenters;
- 5) 7301 Contractors and supervisors, mechanic trades;
- 6) 7302 Contractors and supervisors, heavy equipment operator crews;
- 7) 8211 Supervisors, logging and forestry;
- 8) 8221 Supervisors, mining and quarrying;
- 9) 8222 Contractors and supervisors, oil and gas drilling services;
- 10) 8241 Logging machinery operators;
- 11) 8252 Agricultural service contractors, farm supervisors and specialized livestock workers;
- 12) 9211 Supervisors, mineral and metal processing;
- 13) 9212 Supervisors, petroleum, gas and chemical processing and utilities;
- 14) 9214 Supervisors, plastic and rubber products manufacturing;

<sup>1</sup> <http://www.blaney.com/articles/citizenship-immigration-canada-proposes-amendments-immigration-and-refugee-protection-regulations>.

<sup>2</sup> <http://www5.hrsdc.gc.ca/noc/english/noc/2011/Welcome.aspx>.

*“To avoid backlogs and ensure fast processing times, CIC has indicated that it will accept no more than 3,000 complete FSTP applications to process in the first year...”*



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- 15) 9231 Central control and process operators, mineral and metal processing;
  - 16) 9241 Power engineers and power systems operators; and
  - 17) 9243 Water and waste treatment plant operators.
- b) Group B – no sub-caps (and their corresponding 2011 NOC code):
- 1) 7231 Machinists and machining and tooling inspectors;
  - 2) 7233 Sheet metal workers;
  - 3) 7235 Structural metal and plate work fabricators and fitters;
  - 4) 7236 Ironworkers;
  - 5) 7237 Welders and related machine operators;
  - 6) 7241 Electricians (except industrial and power system);
  - 7) 7242 Industrial electricians;
  - 8) 7243 Power system electricians;
  - 9) 7244 Electrical power line and cable workers;
  - 10) 7245 Telecommunications line and cable workers;
  - 11) 7246 Telecommunications installation and repair workers;
  - 12) 7251 Plumbers;
  - 13) 7252 Steamfitters, pipefitters and sprinkler system installers;
  - 14) 7253 Gas fitters;
  - 15) 7311 Construction millwrights and industrial mechanics;
  - 16) 7312 Heavy-duty equipment mechanics;
  - 17) 7313 Refrigeration and air conditioning mechanics;
  - 18) 7314 Railway car men/women;
  - 19) 7315 Aircraft mechanics and aircraft inspectors;
  - 20) 7318 Elevator constructors and mechanics;
  - 21) 7371 Crane operators;
  - 22) 7372 Drillers and blasters - surface, mining, quarrying and construction;
  - 23) 7373 Water well drillers;
  - 24) 8231 Underground production and development miners;
  - 25) 8232 Oil and gas well drillers, servicers, testers and related workers; and
  - 26) 9232 Petroleum, gas and chemical process operators.

To avoid backlogs and ensure fast processing times, CIC has indicated that it will accept no more than 3,000 complete FSTP applications to process in the first year (January 2, 2013 to January 1, 2014). Within this 3,000 annual cap, no more than 100 new applications for each job listed under Group A will be considered for processing. However, jobs listed under Group B will not be subject to any job-specific sub-cap.

In addition to falling under one of the above occupations, FSTP applicants are required to satisfy the following four minimum requirements:

*“On December 19, 2012, Citizenship, Immigration, and Multiculturalism Minister... announced that the [Federal Skilled Worker Program] will once again begin accepting new applications on May 4, 2013.”*

- a) The applicant must have a qualifying offer of employment (from up to two employers in Canada) having a collective duration of at least one year, or a certificate of qualification from a provincial or territorial apprenticeship authority;
- b) The applicant must possess language proficiency (in either English or French), as evidenced by a test from a designated language testing organization, establishing that the applicant’s abilities meet the thresholds set by the Immigration Minister in all four language abilities (speaking, reading, writing, and listening). The threshold is Level 5 of the Canadian Language Benchmark (“CLB”) for speaking and listening, and CLB 4 for reading and writing. CLB 4 is considered basic proficiency while those with CLB 5 can more effectively participate in and understand routine conversations;
- c) The applicant must possess at least twenty-four months of full-time (at least 30 hours per week) work experience (or the equivalent of part-time work experience), after qualification or certification in the country where the work was performed, in the same skilled trade within the last five years; and
- d) The Applicant must possess qualifications that satisfy employment requirements as described in the NOC, except for certification and licensing requirements, which are difficult to obtain outside Canada. ■

### **NEW FEDERAL SKILLED WORKER PROGRAM TO BEGIN ACCEPTING APPLICATIONS AS OF MAY 4, 2013**

Henry J. Chang

As previously reported, last year Citizenship and Immigration Canada (“CIC”) imposed a “temporary pause” on the acceptance of new Federal Skilled Worker Program (“FSWP”) applications, which became effective on July 1, 2012.<sup>1</sup> On August 18, 2012, CIC published proposed regulatory amendments (the “Proposed Regulations”) in the Canada Gazette, which (once enacted) would significantly alter the FSWP.<sup>2</sup>

On December 19, 2012, Citizenship, Immigration, and Multiculturalism Minister Jason Kenney (the “Immigration Minister”) announced that the FSWP will once again begin accepting new applications on May 4, 2013. The proposed changes to the FSWP were described in our previous article, which provided an analysis of the regulatory amendments.<sup>3</sup> However, a brief summary of these changes also appears below:

- a) Minimum official language thresholds and increased points for official language proficiency, making language the most important factor in the selection process;
- b) Increased emphasis on younger immigrants;
- c) Introduction of the Educational Credential Assessment (“ECA”), to evaluate the foreign credentials of FSWP applicants;
- d) Changes to the arranged employment process; and

<sup>1</sup> <http://www.blaney.com/articles/cic-announces-temporary-pause-most-federal-skilled-worker-immigrant-investor-applications>.

<sup>2</sup> <http://www.blaney.com/articles/citizenship-immigration-canada-proposes-amendments-immigration-and-refugee-protection-regulations>.

<sup>3</sup> Id.

- e) Additional adaptability points for spousal language ability and Canadian work experience.

Applicants will first need to demonstrate that they meet the minimum language threshold (Level 7 of the Canadian Language Benchmark assessment system). To do so they must obtain a language assessment from a language testing organization designated by the Immigration Minister. Applicants will then have their education credentials assessed prior to arriving in Canada. A list of approved ECA organizations designated by the Immigration Minister will be made available early in 2013. Applicants may then submit an application for permanent residence under the FSWP.

The above changes do not apply to foreign nationals who applied under the FSWP prior to May 4, 2013, with a qualifying arranged job offer or under the Ph.D. stream. The temporary pause imposed on July 1, 2012, did not apply to these applicants and CIC continued to accept their FSWP applications.

CIC expects that new applications under the FSWP will be processed in a few months, rather than a few years. However, in order to avoid backlogs, the new FSWP will accept a fixed number of applications each year. ■

EXPECT THE BEST

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