Government of Canada to Cancel Federal Skilled Worker Cases Filed Prior to 2008

Date: April 25, 2012

Original Newsletter(s) this article was published in: Blaneys on Immigration: April 2012

During his 2012 Budget Speech, Canada's Minister of Finance announced that, in an effort to deal with the backlog of pending Federal Skilled Worker ("FSW") cases, the Government would enact legislation to cancel all applications filed prior to February 27, 2008. This is proposed legislation only, but if passed it will be retroactive to March 29, 2012.

Under the proposed legislation, Citizenship and Immigration Canada ("CIC") will close the files of FSW applicants who applied before February 27, 2008, and who have not had a decision on their file made by an immigration officer by March 29, 2012. This proposed legislation is expected to affect about 280,000 applicants, including their dependents.

CIC will begin the process of returning the full amount of fees previously paid by the affected FSW applicants, which could amount to $130 million. For those who have already passed the selection criteria stage as of March 29, 2012 (approximately 20,000 people), CIC will continue processing their applications.

Several Provincial Nominee Programs ("PNPs") are currently reviewing the backlog of pending FSW applications to determine if any of them might be suitable for PNP nomination. For example, Opportunities Ontario has established an FSW Pilot Program (the "FSW Pilot") to accommodate these potential nominees.

Under the Ontario FSW Pilot, FSW applicants who fall under one of the following five occupations will have an opportunity to apply for an Ontario nomination leading to permanent residence:

1. Computer Analysts and Consultants (NOC 2171);

2. Software Developers (NOC 2173);

3. Interactive Media Programmers and Developers (NOC 2174);

4. Financial and Investment Analysts (NOC 1112); and

5. Mathematicians (NOC 2161).

CIC began contacting FSW applicants in these occupations in February 2012, inviting them to participate in the FSW Pilot. Applicants who are invited to participate in the FSW Pilot must submit their applications to Opportunities Ontario by May 4, 2012.

Applicants who are not invited by a PNP to seek a provincial nomination certificate have effectively lost their ability to immigrate to Canada based on their pending FSW application. They can, however, consider filing a new application under another permanent residence category, if they qualify.