IRCC Announces Details of Global Skills Strategy

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Introduction

On June 12, 2017, Immigration, Refugees and Citizenship Canada ("IRCC") announced details of its Global Skills Strategy. First announced in November 2016, the Global Skills Strategy is intended to help promote global investment in Canada and support the Government of Canada's Innovation and Skills Plan. The additional benefits announced under the Global Skills Strategy are described in greater detail below.

Two Week Work Permit Processing

Two-week work permit processing will now be available to the following workers who are applying from overseas using the online portal:

- Foreign nationals whose employers have been approved to hire a foreign worker through the Global Talent Stream (described below); and
- Foreign nationals with jobs at Skill Type 0 (executive, managerial) or Skill Level A (professional) of the *National Occupational Classification* (NOC), who are applying for an employer-specific work permit under a Labour Market Impact Assessment ("LMIA")-exempt category (not including the International Experience Canada category).

This two-week service standard will also apply to immediate family members who are accompanying these high-skilled workers to Canada.

New Work Permit Exemptions

Short Term Workers

A new work permit exemption has been established for highly-skilled (all NOC 0 and NOC A) workers. Eligible workers will now be allowed one 15-day work permit-exempt stay in Canada every 6 months, or one 30-day work permit-exempt stay every 12 months.

Researchers

Researchers coming to Canada will be permitted one 120-day stay every 12 months without requiring a work permit when they are working on a research project at a publicly-funded degree-granting institution or affiliated research institution.

Global Talent Stream

Overview

The Global Talent Stream is a 2 year pilot program intended to support innovative firms in Canada need unique and specialized foreign nationals in order to scale-up and grow (Category A). It is also intended for employers in Canada that need to fill an in-demand highly-skilled position on the Global Talent Occupations List (Category B). Please note that the Global Talent Stream it is not yet applicable in the Province of Quebec but the Federal Government hopes to implement it in that province soon.

Category A

An employer may be eligible under Category A if it has been referred to the Global Talent Stream by one of the Employment and Social Development Canada ("ESDC") designated partners and it is hiring unique and specialized talent.

The role of designated referral partners is to refer eligible Canadian companies with whom they have existing relationships. This means that the innovative Canadian company must be legally constituted in Canada, have a focus on innovation, be seeking to scale up, have a willingness to grow, and have a demonstrated need to hire a unique and specialized individual. The current list of designated referral partners appears here.

For the purposes of Category A, "unique and specialized talent" is indicated by:

- Advanced knowledge of the industry;
- An advanced degree in an area of specialization of interest to the employer; AND/OR
- Minimum of five years of experience in the field of specialized experience; AND
- A highly paid position with a salary of usually $80,000.00 CAD or more.

Category B

An employer may be eligible under Category B if it is hiring highly-skilled foreign workers to fill positions in occupations found on the Global Talent Occupations List. Eligible occupations include those in the fields of computer technology, web design, electrical/electronic engineering technology, and digital media design.

Global Talent Stream Requirements

Processing Fee and Service Standard

Employers must pay $1,000.00 CAD for each position requested to cover the cost of processing the application. The processing fee cannot be paid by nor be recovered from the temporary foreign worker. Applications submitted under the Global Talent Stream should be processed by ESDC within 2 weeks (10 business days).

Business Legitimacy

Employers must be actively engaged in the business where the temporary foreign worker will be employed and remain so during the period of employment for which the work permit is issued. Employers must have an operating/functioning business, providing either a good or service related to the job offer made to the temporary foreign worker in Canada.

Labour Market Benefits Plan

Employers who wish to participate in the Global Talent Stream must submit an application to ESDC, in order to establish their eligibility. Among other things, the employer must develop a Labour Market Benefits Plan, which demonstrates its commitment to activities that will have lasting, positive impacts on the Canadian labour market.

A Labour Market Benefits Plan is intended to help the Government of Canada (and the employer) to identify and track its overall job creation, skills and training investments, which must benefit the Canadian economy through the company's employment of highly-skilled global talent.

Commitments within the Labour Market Benefits Plan are divided into mandatory and complementary benefits. The mandatory benefit depends on the Global Talent Stream category:

- An employer seeking to hire unique and specialized talent under Category A must commit to creating jobs, either directly or indirectly, for Canadians and permanent residents as its *mandatory benefit*.
- An employer in Canada seeking to hire highly-skilled foreign workers to fill positions in occupations on the Global Talent Occupations List under Category B must commit to increasing skills and training investments for Canadians and permanent residents as its *mandatory benefit*.

In addition to the applicable mandatory benefit, employers must also commit to achieving a minimum of *2 complementary benefits with at least 1 activity for each benefit*.

Complementary benefits, could include (but are not limited to) job creation, investment in skills and training, transferring knowledge to Canadians and permanent residents, enhanced company performance and implementing best practices or policies as an employer. The complementary benefits identified by an employer in their Labour Market Benefits Plan cannot be the same as the mandatory benefit.

Activities that will support mandatory and complementary benefits could include, but are not limited to the following:

- Increasing the number of Canadians or permanent residents employed full-time and part-time by the firm;
- Establishing educational partnerships with local or regional post-secondary institutes or with other organizations that are supporting skills and training;
- Paid co-op or internship programs;
- Developing and implementing policies to support the hiring of underrepresented groups;
- Directly training Canadians or permanent residents;
- Directly supervising and mentoring Canadians or permanent residents;
- Increasing growth of revenue, employment or investment; and
- Developing/enhancing partnerships with organizations that assist with the identification of top domestic capital.

The progress of an employer's Labour Market Benefits Plan will be monitored at regular intervals to allow ESDC to assess the performance of the Global Talent Stream and to determine the employer's continuing eligibility. In other words, an employer using the Global Talent Stream must follow additional compliance requirements specific to the Global Talent Stream, in addition to the existing employer compliance requirements that are applicable to all temporary foreign workers.

Recruitment Not Mandatory But Encouraged

While there is no minimum recruitment requirement for the Global Talent Stream, employers are still encouraged to recruit Canadians and permanent residents before offering a job to a temporary foreign worker. Employers are asked, as part of the application, to describe any recruitment efforts conducted.

Wages

Wages offered to temporary foreign workers should be similar to wages paid to Canadian and permanent resident employees hired for the same job and work location, and with similar skills and years of experience. For the purpose of the Global Talent Stream, employers must pay the prevailing wage, which is defined as the highest of either:

- The applicable minimum wage requirement as identified in the Global Talent Occupations List;
- The wage that is within the wage range that the employer is paying its current employees hired for the same job and work location, and with the same skills and years of experience; or
- The median wage stated on ESDC's Job Bank.

Please note that, if the position requires additional skills and years of experience over the applicable NOC description, the wages offered should reflect these additional requirements. Wages must also be reviewed and adjusted, when applicable and at least annually, to ensure that foreign workers continue to receive the prevailing wage for the occupation and region where they are employed.

Job duties and Working Conditions

Temporary foreign workers must only perform duties that correspond to the occupation for which they gave been hired. Employers must also comply with applicable provincial or territorial employment standards legislation, which addresses employment standards such as:

- Hours of work (including overtime);
- Compensation;
- Working conditions; and
- Termination of employment.

Workplace Safety Requirements

Employers must ensure that the temporary foreign worker is covered by a provincial or territorial workplace safety insurance provider, where required by law. Where the provincial or territorial legislation allows employers to utilize a private insurance plan, employers must ensure that:

- The private plan provides better or the same level of compensation to that offered by a province or territory; and
- All employees on the worksite are covered by the same provider.

The start date for coverage must correspond with the temporary foreign worker's first day of work in Canada and the costs must not be recovered from the temporary foreign worker.

Language Requirements

Generally, English or French are the only languages an employer may claim as a job requirement. However, if another language is truly essential for the proposed job, the employer will be expected to establish its business necessity in the application.

Unionized Positions

If the employer is seeking a temporary foreign worker for a position covered under a collective agreement, it must:

- Offer the same wage rates as those established under the collective agreement
- Offer the temporary foreign worker the same terms and conditions as Canadian and permanent resident workers; and
- Submit a copy of the section of the collective bargaining agreement on the wage structure.

The hiring of the temporary foreign worker also must not affect current or foreseeable labour disputes at the workplace.

Conclusion

The 2 week processing time for skilled workers (NOC 0 or A) who are applying under an LMIA-exempt category is certainly welcome news, although there is some concern that IRCC/ESDC may not be able to meet this service standard. The two new work permit exemptions are also welcome and may facilitate the entry of some short term workers and researchers. However, it remains to be seen whether the Global Talent Stream will be popular with employers, due to the

Labour Market Benefits Plan requirement and the additional monitoring that will apply over and above the existing employer compliance requirements.