

# Business Immigration Update: Citizenship Eligibility, AINP Changes, National Immigration Levels and NAFTA

Thursday, February 1, 2018

## Recent Citizenship Changes

On October 11, 2017, the Government of Canada introduced changes to the *Citizenship Act* that allows permanent residents to apply for Canadian citizenship after they have been physically present in Canada for at least 1,095 days (three years) in the five years immediately before the date of their application. To be eligible, the applicant must also: (i) have filed personal income taxes for at least three years within the five-year period (if required under the *Income Tax Act*); (ii) demonstrate adequate knowledge of English or French; and, (iii) demonstrate adequate knowledge of Canada (if the applicant is between 18 and 54 years old when they apply). To calculate physical presence in Canada, each day the applicant was physically present in Canada as an authorized temporary resident before they became a permanent resident counts as half a day (up to a maximum of 365 days) and each day they were physically present in Canada as a permanent resident counts as one day. Now that minors are eligible for citizenship without a Canadian parent, the above criteria applies regardless of age, except for the language and knowledge requirements as outlined.

Under the previous requirements, the applicant had to be physically present in Canada as a permanent resident for at least 1,460 days (four years) during the six years immediately before the date of their application. They must also have been physically present for at least 183 days during each of the four calendar years that were fully or partially within the six years immediately before the date of application. When calculating their physical presence in Canada, they could only count time spent after they became a permanent resident of Canada. For many foreign nationals who worked in Canada as a temporary foreign worker on a valid Work Permit, the new guidelines allow them to count more time towards the physical presence in Canada requirement. The previous age requirement (ages 14 – 64) required applicants to demonstrate adequate knowledge of English or French and knowledge of Canada. By changing the age requirement, this may make applying for citizenship more accessible and less burdensome for some applicants.

If you think you may be eligible to apply for Canadian citizenship, contact your immigration lawyer to discuss your physical presence requirements.

## Proposed AINP Changes Postponed

The Alberta Immigrant Nominee Program ("AINP") announced on December 15, 2017 that previous planned changes that were scheduled to come into effect on January 2, 2018, has been postponed. The AINP office has stated that the planned changes were postponed in order for the government to continue conversations with affected stakeholders and that applicants can continue to apply under the existing application streams.

Under the proposed changes initially announced in October 2017, the AINP office indicated that it would begin to accept applications under two streams: the new Alberta Opportunity Stream and the Self-Employed Farmer Stream. The Alberta Opportunity Stream would replace the Employer-Driven Stream and Strategic Recruitment Stream. The AINP office

also previously announced that it would have an Alberta Express Entry stream operational in January 2018.

Among other things, the proposed changes would require the following of the applicant:

- Must have valid temporary resident status in Canada as a foreign worker
- English must be at Canadian Language Benchmark ("CLB") 4 or French at Niveaux de compétence linguistique canadiens ("NCLC") Level 4, and everyone would need to meet CLB 5 on January 2, 2019 (except for applicants working in National Occupational Code 3413 (nurse aides, orderlies and patient services associates) that must meet CLB 7 immediately)
- Must have the equivalent of a Canadian high school diploma proven by an Educational Credential Assessment ("ECA")
  - Tradespersons may have an Alberta Industry Training Recognized Trade Credential instead of an ECA
  - Those with a completed Canadian degree, diploma or certificate from a recognized Canadian post-secondary, technical college or secondary institution would not require an ECA
- Must meet the following requirements for the same occupation under which the application is made and assessed:
  - Either 12/18 months full-time experience in Alberta with an Alberta employer or 24/30 months of full-time work experience in Canada and/or abroad; and
  - Bona fide job offer with an Alberta employer for full-time, continuous, paid work in Alberta.

Under the current application categories, there is no proof of language competency requirements for many of the streams (except for select applicants working in National Occupation Classification ("NOC") C skill level occupations or the semi-skilled worker categories), nor is there a requirement for an ECA. It is not yet clear when the AINP will implement these changes or if they will remain in the format previously proposed.

### **Historic Increase in Immigration Levels**

The Government of Canada announced in November 2017 that it would be increasing the number of permanent residents that Canada welcomes annually. It would see an increase of 310,000 new permanent residents in the year 2018, which would grow to 330,000 in the year 2019 and 340,000 in the year 2020. This includes a planned targeted increase in the Economic immigration categories (including the Federal Skilled Worker Program, Federal Skilled Trades Program, Canadian Experience Class and Provincial Nominee Programs) and an increase in the Family immigration categories (including spouses, partners and children, and parents and grandparents). The government claims this plan sets out the most ambitious immigration levels in recent history.

In a previous message released by the Honourable Ahmed Hussen, Minister of Immigration, Refugees and Citizenship, it was communicated that increased immigrations levels are designed to bring more people to Canada who can contribute to our economic growth and help ease the challenges of a shrinking labour force and aging population. It also claimed it will help reduce backlogs.

It appears that 2018 will be a busy year for immigration levels but it remains to be seen whether or not the Government of Canada has allocated sufficient resources to address these new levels or if processing backlogs will increase as a result.

### **Potential Changes to NAFTA**

As previously discussed on [THE RESOURCE](#), Borden Ladner Gervais LLP's [Energy Law Blog](#) post in [February 2017](#), potential changes to the North American Free Trade Agreement ("NAFTA") could have a significant impact on U.S. and Mexico citizens seeking to obtain Canadian Work Permits. President Donald Trump frequently raised the issue of renegotiating NAFTA during his campaign and has renewed his criticism of NAFTA since taking office. The NAFTA renegotiations started in August 2017 and there have been several rounds of negotiations since then. The sixth round began in Montreal, Québec on January 23, 2018 with negotiation teams from Canada, Mexico and the United States. President Trump has continued to repeat his threat to terminate the agreement if it does not meet his requirements.

Corporations have long used NAFTA to facilitate the temporary entry of certain categories of workers such as intra-company transferees and professionals, as well as improve the admissibility to Canada of certain categories of business visitors. Any changes to NAFTA could have detrimental effects on the business immigration advantages that are currently utilized by corporations in both Canada and the United States. Foreign nationals that currently qualify under NAFTA may wish to take steps to apply sooner rather than later.

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