



Beyond the border:
Immigration update
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INTRODUCTION

Hiring international talent? The Stewart McKelvey Immigration team has the experience necessary to help get your talent on the ground in a timely and compliant manner. Team members have the experience needed to counsel and assist clients who bring international business travelers, professionals or skilled workers to Canada through the necessary employment-based immigration processes.

We are pleased to present *Beyond the Border*, a quarterly publication aimed at providing the latest information to clients about new programs and other immigration-related information that may be pertinent to employers of foreign workers in Canada. Should you have any questions, or would like to learn more about the topics discussed, please contact a member of our [Immigration Group](#).

POTENTIAL FOR OCCUPATION-SPECIFIC WORK PERMITS

[Kathleen Leighton](#); associate, Halifax

Work permits currently fall into one of two categories: employer-specific, or open.

Employer-specific work permits restrict the foreign worker to a certain employer, work location, and occupation. This creates inflexibility for both employers who may wish to alter the work of their employees, and for the employees themselves who may wish to seek out new roles within their organization, or to leave their employer for a new organization entirely.

Open work permits allow foreign workers to work in nearly any type of job for nearly any employer in Canada, subject to a few restrictions. They increase mobility opportunities for workers who may wish to take on new roles at new organizations. There are limited circumstances in which you can obtain an open work permit.

Occupation-specific work permits

Immigration, Refugees and Citizenship Canada (“IRCC”) is looking at creating a third category of work permit: occupation-specific. Initially, this work permit would be specifically aimed at the primary agriculture and low-wage stream. An occupation-specific work permit would allow a foreign national to work in one occupation or National Occupational Classification (“NOC”) code more generally, rather than in one position only for a specific employer.

Workers who are issued an occupation-specific work permit, however, will only be able to seek employment with organizations that have vacant positions and an approved Labour Market Impact Assessment (“LMIA”) from Employment and Social Development Canada (Service Canada) in order to ensure continued appropriate oversight on employers of foreign workers. For example, this works to ensure employers of foreign workers with occupation-specific work permits will still meet certain commitments surrounding wages and working conditions.

IRCC has sought input on supports that would be necessary to help foreign workers find a new employer in Canada that had a valid LMIA for their occupation, including whether a job matching or similar mechanism should be put into place. Such a mechanism would be intended to help foreign workers seeking new opportunities in their occupation to find new employment, but would also potentially be an asset to employers who are looking to fill vacant positions.

NEW PERMANENT RESIDENCE STREAM IN NOVA SCOTIA FOR “OCCUPATIONS IN DEMAND”

[Kathleen Leighton](#); associate, Halifax; and Emily Murray; summer student, Halifax

Nova Scotia has recently announced a new three-year Occupations in Demand pilot project for permanent residence applicants, targeting specific intermediate-skilled occupations that are in high labour market demand. The Province’s move to expand the permanent resident provincial nominee program aims to help more businesses prosper and fill the current shortfall of workers for high labour market demand occupations in Nova Scotia. The targeted professions will change as labour market needs in the Province evolve, but information on this stream and other updates, including to the list of prioritized in demand occupations, is [available](#).

Nova Scotia Nominee Program

Occupations in Demand is the newly introduced economic stream under the Nova Scotia Nominee Program (“NSNP”). Through the NSNP, the Province is able to target prospective immigrants who possess certain desired skills and experience, and provide them with opportunities, through issuance of a “nomination”, to help them immigrate to Canada. The NSNP aims to attract prospective immigrants who have a genuine intent to settle in Nova Scotia and become permanent residents of Canada.

The processing time for eligible applications at the nomination stage can be three months or more. Immigrants then have a six month period in which they must submit an application for permanent residency to Immigration, Refugees and Citizenship Canada using their provincial Nomination Certificate.

Who is eligible?

The Occupations in Demand stream is currently open to eligible candidates with a full-time, permanent job offer from a Nova Scotia employer in one of the currently open occupations categorized as Skill Level C under Canada’s National Occupational Classification (“NOC”).

Applicants must

- have a full-time permanent job offer from a Nova Scotia employer in either NOC 3413 (**nurse aides, orderlies and patient service associates**) or NOC 7511 (**transport truck drivers**);
- have 1 year (12 full calendar months with at least 1,560 hours) of paid work experience within the last 5 years that is related to the job (verified by letters of reference from employers and other supporting employment documents);
- be 21 to 55 years old;
- have a high school diploma;

- have the appropriate training, skills and/or accreditation for the job;
- prove language ability equal to a minimum Canadian Language Benchmark (CLB) Level 4 across all four categories (listening, reading, writing and speaking) even if their first language is English or French;
- show genuine intention to successfully settle in Nova Scotia; and
- demonstrate adequate financial resources to settle in the Province.

Criteria and requirements for the employer

The employer of an applicant applying under the Occupations in Demand stream must have a permanent establishment in Nova Scotia that has been in active operation for at least two years. The employer must be registered with Nova Scotia's Registry of Joint Stock Companies, must be in good standing with provincial occupational health and safety and labour authorities, and must not be in violation of Canadian immigration legislation and requirements.

Additionally, the employer is required to provide certain support to the applicant under the Occupation in Demand stream. Specifically, the employer is required to complete the NSNP 200 form to confirm details of the company and the job offered to the applicant.

The job offer supporting an application under this stream must:

- be in either NOC 3413 (nurse aides, orderlies and patient service associates) or NOC 7511 (transport truck drivers);
- be located in Nova Scotia with a Nova Scotian employer;
- be full-time employment where the employee is expected to work year-round and at least 30 hours a week on average;
- be a permanent job (i.e. a long-term job offer without a pre-determined end date)
- provide compensation in the form of salary that meets applicable provincial employment standards and that falls within the provincial wage range;
- be a position that has a shortage of qualified permanent residents or Canadian citizens to fill the position; and
- not contravene any existing bargaining unit agreements, labour agreements/standards or be involved in any employment disputes.

Additionally, the employer must provide evidence of recruitment for the position, and the recruitment efforts must comply with the Province's specifications and predate the applicant's current offer of employment. Recruitment efforts are mandatory unless the applicant is in possession of a valid Labour Market Impact Assessment ("LMIA") or is in a position that was determined to be LMIA-exempt.

Application process

Candidates approved through the Occupations in Demand stream will receive a provincial Nomination Certificate and can then apply for Permanent Residence.

Additionally, if successfully nominated by the Province, the applicant can also request a Letter of Support, which will support the individual's application for a temporary work permit so they can work in Nova Scotia while waiting for their permanent residency application to be processed.

ARE YOU CURRENTLY EMPLOYING FOREIGN WORKERS? FIVE QUICK TIPS...

1. Consider conducting periodic, randomized internal audits to verify your company's compliance with immigration obligations.
2. Introduce a Foreign Worker Policy for managers including clear guidelines on not making changes to foreign workers' work conditions without first seeking advice.
3. Review the prevailing wage for all of your foreign workers annually to ensure you are paying foreign workers sufficiently, where required.
4. Keep detailed records regarding your foreign workers (contracts, work permits, LMIA's or Employer Compliance submissions, pay stubs, time sheets, and more) for at least 6 years.
5. Ensure job offers are contingent on the foreign workers' ability to obtain and maintain legal authorization to work in Canada for the company as contemplated in the job offer.

DID YOU KNOW?

Due to recent changes, most in-Canada work permit extensions now must be made electronically, rather than by paper. There are, however, some exemptions to this requirement.

Please contact our [Immigration Group](#) if you wish to verify whether a given work permit application can be made by paper.

FURTHER INFORMATION

This publication is intended to provide brief informational summaries only of legal developments and topics of general interest, and does not constitute legal advice or create a solicitor-client relationship. This publication should not be relied upon as a substitute for consultation with a lawyer with respect to the reader's specific circumstances. Each legal or regulatory situation is different and requires review of the relevant facts and applicable law. If you have specific questions related to this publication or its application to you, please contact our [immigration team](#). Due to the rapidly changing nature of the law, Stewart McKelvey is not responsible for informing you of future legal developments.