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Beyond the Border

A Year End Immigration Wrap-Up



IMMIGRATION
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INTRODUCTION

We are pleased to present *Beyond the Border: A Year End Immigration Wrap-Up*. Compiled by lawyers from our Immigration team, this 2022 update covers topics including a look back at the end of pandemic restrictions that significantly impacted travel, a review of several changes impacting immigration applications and processes that occurred throughout the year, and a look forward to the Government of Canada's ambitious immigration targets for 2023 to 2025

If you have any questions or wish to learn more about the topics in this publication, please contact [Brittany Trafford](#), Associate and Immigration Team Lead.

Please note, we have updated our *Beyond the Border* quarterly publication to an annual model, which supplements our various other Thought Leadership articles produced throughout the year. These articles can be viewed on our [website](#).

The information in this publication is current as of December 12, 2022 and is intended for general information purposes only. This document should not be relied upon as legal advice.



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This update is intended for general information only. If you have further questions about any information in this update or are an employer seeking to support your workers, please contact a member of our [Immigration Group](#).

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THE END OF COVID TRAVEL AND QUARANTINE RESTRICTIONS

After more than two years of pandemic-related border restrictions and quarantine requirements, which severely impacted employers trying to bring in crucial business persons as well those looking to travel for family reunification and other personal reasons, 2022 marked the end of COVID-19 entry restrictions, testing requirements, and quarantine and isolation rules. As of [October 1, 2022](#), travellers to Canada no longer had to provide proof of vaccination, undergo pre- and post-arrival testing, report signs and symptoms of COVID-19 after arrival to Canada, or comply with various directives that complicated, or in some cases frustrated, the travel process.

During the height of the pandemic, only certain individuals could enter Canada for work where their purpose for entry fell into one of the established categories of essential travellers. It was a relief to employers across Canada, many of whom implemented hiring freezes during the pandemic, as restrictions were lifted and they were once again able to bring in necessary business persons required to address labour gaps, install and repair key equipment, and otherwise contribute to ongoing business operations.

Throughout the course of the pandemic, it was mandatory for travellers to submit public health information through ArriveCAN. However, as of October 1, 2022, use of this tool became optional. ArriveCAN is still available for travellers coming through certain Canadian international airports who wish to save time by providing their customs and immigration declaration to CBSA in advance of arrival. The use of ArriveCAN is likely to continue to be expanded with the goal of improving the border experience.

RELEASE OF THE 2023-2025 LEVELS PLAN

On November 1, 2022, the Honourable Sean Fraser, Minister of Immigration, Refugees and Citizenship, released the 2023-2025 Immigration Levels Plan (the “Levels Plan”). While 2021 saw over 405,000 newcomers welcomed to Canada, which was the largest number of newcomers welcomed in a single year to-date, the Levels Plan outlines the Government’s even more ambitious targets for permanent resident admissions over the next few years. Namely, the goal is 465,000 permanent residents in 2023, 485,000 in 2024, and 500,000 in 2025.

[Nearly 100% of Canada’s labour force growth is accounted for by immigration](#). Given the country’s aging population, declining birth rates, and increasing life expectancy, among other factors, we are facing severe labour shortages. Immigrants have been crucial to our post-pandemic recovery efforts, and will continue to be essential in addressing these population issues. About 57% of the targeted newcomers for 2023 are intended to be economic immigrants. There are also plans to target individuals to better address labour shortages and increases to regional programs through the Provincial Nominee Program, Atlantic Immigration Program, and Rural and Northern Immigration Pilot.

The remainder of the targeted admissions is made up of a combination of family sponsorships, refugees and protected persons, and individuals with humanitarian and compassionate grounds for entry. [The Supplementary Information for the 2023-2025 Immigration Levels Plan](#) outlines these targets in more detail.

EXPRESS ENTRY SYSTEM UPDATES

This year has brought newsworthy updates to the Express Entry System, which runs various federal economic immigration programs:

- **Resumption of All-Program Express Entry Draws:** As noted above, the COVID-19 pandemic had a significant impact on immigration. One impact was the temporary pause placed on the Express Entry System. From September 15, 2021 to June 22, 2022, there were 21 rounds of “Invitations to Apply” held for applicants in the Express Entry Pool. Each of those rounds invited only candidates from the Provincial Nominee Program to apply. The focus for issuing Invitations at this time was on candidates already in Canada.

July 6, 2022 brought about a sigh of relief with the first all-program round of Invitations since the hiatus noted above. This round had a minimum required score of 557, which is a high threshold. Minimum scores were hovering around the 470-range pre-pandemic, and even those scores were considered fairly high when examining historical draws. The resumed all-program draws have continued on regular intervals since July 6, and scores have been trending slowly downwards to 491.

- **Bill C-19 and Targeted Express Entry Draws:** As noted above, the Government of Canada has ambitious goals to admit new permanent residents to the country and address our labour shortage issues. The Express Entry System will assist in these efforts. Bill C-19, which received Royal Assent on June 23, 2022, amends the *Immigration and Refugee Protection Act* to give the Minister the power to tailor Express Entry draws to target those who are most likely to meet the needs of the Canadian economy, rather than issuing Invitations to Apply based solely on an applicant’s Comprehensive Ranking Score. For example, candidates could be invited to apply for permanent residence if they are in certain occupations that are in high demand at the time of a draw, or who intend to live in a region experiencing serious labour shortages. Our Immigration Group published an article on the impact of Bill C-19 available [online](#).
- **Physician Work Experience:** Finally, the Federal Government [announced](#) changes to how physicians’ work experience in Canada will count towards their “Canadian experience” for Express Entry. Previously, as many physicians work under a fee-for-service model, they were considered to be self-employed and therefore did not receive appropriate recognition for their Canadian work experience. Foreign national physicians often had to first obtain a Provincial Nomination before they would be eligible to apply through the Express Entry system as a result. Given the severe need our country has for health professionals, including physicians, this change announced in September 2022 should help streamline the process for physicians who may now be eligible for permanent residence under the Express Entry System earlier on.

IMMIGRATION BACKLOGS

Despite Canada’s ambitious immigration plans for the next few years, the Government of Canada reported on the significant backlog in processing immigration applications. There is a new [website](#) that provides information on the backlogs, which is current to October 31, 2022.

There are currently 2.2 million total applications in all IRCC inventories, with 1.2 million of those in backlog. When an application is in backlog, it means the service standard to process that application has been exceeded. The Government’s overall goal is to process 80% of all

applications within the listed service standards. It is projected that this goal will be met by year end for permanent residence and nearly met in the case of citizenship applications.

However, things look much less positive for temporary resident applications. In particular, the backlog of work permit applications is actually anticipated to get worse by year end (23% in backlog at time of reporting, projected 60% backlogged by year end). The 26% backlog for study is expected to increase to 33%, and the 74% backlog for temporary resident visas is anticipated to decrease slightly to 66% by year end.¹

Even if the Government's goals are achieved with respect to the percentage of applications processed within the listed service standards, this still does not mean quick turnaround times for applicants. For example, the service standard for work permit and study permit extensions submitted within Canada is a lengthy 120 days.

Our Immigration Group published an [article](#) on the backlogs. This article also provides an overview of the specific steps Canada plans to take to meet its processing objectives.

NEW OCCUPATION CLASSIFICATION STRUCTURE

As of November 16, 2022, the Government of Canada updated the National Occupation Classification ("NOC") structure from the 2016 version to a new 2021 version. The NOC is Canada's system for classifying occupations based on related job duties and skill levels, and it is particularly relevant to Canadian immigration programs. Permanent residence programs, such as those run through the Express Entry System and the Atlantic Immigration Program use the NOC system to classify required work experience as well as the skill level of the job offer necessary for program eligibility. Certain temporary residence options, like the Global Skills Strategy Work Permit Exemption, also rely on the NOC system to categorize who is, and who is not, eligible.

The updated structure involves a reclassification of various occupations to new skill levels. As a result, program eligibility of workers in various NOCs has been impacted. There are certain occupations, like Food and Beverage Servers and Nursery and Greenhouse Labourers, who were previously eligible for the Atlantic Immigration Program that will no longer qualify. On a positive note, there are a number of occupations, including Truck Drivers, that will newly qualify for Express Entry programs. Read more about this change in our previous [article](#).

EXPANDED OFF-CAMPUS WORK ELIGIBILITY FOR STUDY PERMIT HOLDERS

International students are eligible to work off-campus during the course of their studies in Canada if they meet specific eligibility criteria. For example, they must be attending one of Canada's designated learning institutions on a full-time basis in a program that is at least six months in length and that will lead to a degree, diploma, or certificate. These students do not require a separate work permit, but rather the eligibility to work off-campus will be noted in the conditions section of their study permit.

This work eligibility allows international students to support themselves while they complete their studies, gain valuable Canadian work experience, and make connections with employers that

¹ Figures are current as of December 12, 2022.

may lead to full-time positions after graduation. Normally, the eligibility to work on a study permit is limited to 20 hours per week during regular academic sessions (full-time work is only allowed during scheduled academic breaks).

As of the October 7, 2022 [announcement](#) from the Minister of IRCC, a new temporary measure will apply between November 15, 2022 and December 31, 2023 such that certain international students in Canada who hold a study permit with off-campus work authorization will not be restricted by the 20-hour-per-week limit.

Not only will this allow international students to gain more work experience while attending school, but it also provides additional labour for Canada's employers. International students must still be mindful that they maintain full-time student status, even when taking on additional work hours.

LABOUR MARKET IMPACT ASSESSMENT UPDATES

There were a few positive updates to the Temporary Foreign Worker Program, which allows employers to obtain a Labour Market Impact Assessment ("LMIA") to support the hiring of a temporary foreign worker:

- Employers hiring high-wage positions by way of an LMIA can request an employment duration of up to three years, while employers hiring low-wage positions can request an employment duration of up to two years (an increase from two years and one year, respectively).
- LMIAs are now valid for a period of 18 months from the date of issuance. This provides foreign workers more time to make their work permit application.
- Employers are subject to a 20% cap limit on the proportion of temporary foreign workers they can hire in low-wage positions at a specific work location. There are certain applications that, if received between April 30, 2022 and April 30, 2023, will benefit from a cap limit of 30%. This includes applications for workers in hospitals, nursing and residential care facilities, and food manufacturing sectors, among others. Further, for employers that have fewer than 10 employees, they will be rounded up to 10 employees for the purposes of the cap calculation.
- Employment and Social Development Canada ("ESDC") has confirmed that employers can offer a pay raise to foreign national employees hired by way of an LMIA up to the Bank of Canada's listed annual inflation rate of the previous year (or up to two percent), whichever is higher, without needing to notify ESDC or obtain a new LMIA.

EMPLOYER COMPLIANCE REQUIREMENTS

The Government of Canada has introduced further protections for foreign workers employed in Canada by way of September 26, 2022 amendments to the *Immigration, Refugees and Protection Regulations*. A few highlights are as follows:

- Employers who have not employed a foreign worker in the past six years, and who wish to apply for an LMIA, will be subject to a review of their "reasonable efforts" to provide a workplace that is free from abuse.

- All employers are required to provide foreign national employees with information regarding their rights in Canada on or before their first day of work. The Government of Canada has prepared an information package entitled “[Temporary foreign workers: Your rights are protected](#)” that should be provided to the workers.
- Employers are obligated to provide temporary foreign workers with copies of their employment contracts before they begin employment in Canada.
- Employers must make reasonable efforts to provide access to emergency health care services for foreign workers, including if the worker is injured or becomes ill at the workplace.
- Employers hiring foreign national employees under the Temporary Foreign Worker Program must obtain and pay for private health insurance that covers emergency medical care for any period that the foreign worker is not covered by the applicable provincial or territorial health insurance system. This may need to be in effect as soon as the worker enters Canada, even if they have not begun work yet.

See our prior [article](#) for more information on employer immigration compliance obligations.

ATLANTIC IMMIGRATION PROGRAM BECOMES PERMANENT

This year kicked off with the Atlantic Immigration Program (“AIP”) coming into force on January 1, 2022. AIP replaced the previous pilot version of the program, which was launched in 2017. AIP is a pathway to permanent residence for both skilled foreign workers and international graduates from Canadian institutions who plan to work and live in Nova Scotia, New Brunswick, Prince Edward Island, or Newfoundland and Labrador. Employers can support foreign workers through this program to permanent residence, and the workers will have the option of applying for a temporary work permit so they can begin work in the meantime.

PROHIBITION ON THE PURCHASE OF RESIDENTIAL PROPERTY BY NON-CANADIANS

The *Prohibition on the Purchase of Residential Property by Non-Canadians Act* was assented to on June 23, 2022 and will come into force on January 1, 2023. This legislation prohibits non-Canadians from purchasing residential real estate in Canada for a period of two years. The Act only sets out the general prohibition, but regulations should follow in the coming months to provide further clarity. As it stands, individuals who are not Canadian citizens, permanent residents of Canada, or registered Indians under the *Indian Act* are considered “non-Canadians”. There is a listed exemption for a “temporary resident” within the meaning of the *Immigration and Refugee Protection Act* that satisfies certain conditions that will become clear when the regulations are available.

Based on a [consultation paper](#) that sought feedback from interested Canadians and stakeholders, it was proposed that there be an exception for a temporary resident of Canada who holds a valid work permit, or who is otherwise authorized to work, if they have worked in Canada for a minimum continuous period of three years in the past four years and filed a Canadian income tax return for a minimum of three years in the past four years preceding the year when the purchase is made. Hopefully the regulations will become available soon to provide clarity.

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