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**Major “Must Know”  
Immigration Changes in 2014**

**by Phebe Chan**

# Overview

1. The Temporary Foreign Worker Program;
2. International Student Program;
3. New Definition of Dependent;
4. Changes to the Citizenship Act;
5. Termination of the Federal Investor Program; and
6. Express Entry.

# 1. The Temporary Foreign Worker Program (“TFWP”)

- On June 20, 2014 the TFWP underwent some major changes:
- The Labour Market Impact Assessment (“LMIA”) replaces the Labour Market Opinion (“LMO”) and has stringent requirements.
- The International Mobility Program (“IMP”) implemented for LMIA-exempt work permit applications (i.e. – NAFTA, GATS and International Students).

# 1. The TFWP (cont'd)

- **Immediate Effect**

- CBC News: The number of applications received in July and August 2014 is approximately 74% lower than those received over the same time period in 2012.
- The film industry business has decreased substantially.
- They've put a hold on work permit applications for the visual effects industry.

# 1. The TFWP (cont'd)

- **What was an LMO?**
  - LMO: was a document issued by ESDC to an employer.
  - Prior to 2013 there was no application fee. In July 2013 a \$275 fee was implemented.
  - 12 weeks processing times.

# 1. The TFWP (cont'd)

- **TFWP Changes as of June 2014**

- The new LMIA process is more comprehensive and rigorous.
- The duration is limited to a maximum of one year for all low-wage positions.
- The LMIA fee increased from \$275 to \$1,000.

# 1. The TFWP (cont'd)

- **The Labour Market Impact Assessment (“LMIA”)**
  - An LMIA is a labour market verification process whereby the federal government assesses an offer of employment to ensure that the employment of a foreign worker will not negatively impact the Canadian labour market.
  - The LMIA process begins with advertising for a specific position, at a specific wage range, with specific qualification criteria.

# 1. The TFWP (cont'd)

- In addition to the previously required information under the LMO process, under the new LMIA process employers must now provide:
  - The number of Canadians that applied for the job;
  - The number of Canadians the employer interviewed; and
  - explanations for why those Canadians were not hired.

# 1. The TFWP (cont'd)

- **LMIA – Wages Offered**

- The TFWP will now be assessed based on the wage offered to the foreign worker.
- Temporary foreign workers (TFWs) being paid under the median hourly wage will be considered low-wage, while those being paid at or above median hourly wage will be considered high-wage.

# 1. The TFWP (cont'd)

- **LMIA – Foreign Worker Caps**

- Employers with 10 or more employees applying for a new LMIA are subject to a cap of 10% on the proportion of their workforce that can consist of low-wage TFWs.
- Additional provisions allow employers to transition from a higher percentage to a maximum 10% low-wage TFW proportion by 2016.

# 1. The TFWP (cont'd)

- **LMIA – Unemployment Rate**

- LMIA applications for positions that require little or no education/training will not be processed in economic regions with an unemployment rate at or above 6%.
- The unemployment rate in downtown Vancouver, according to Statistics Canada, is 5.9%.

# 1. The TFWP (cont'd)

- **LMIA – Duration**

- The duration of work permits is limited to a maximum of 1-year for all low-wage positions.
- The maximum 4-year work permit cap will be reduced (*to an unknown cap*).

# 1. The TFWP (cont'd)

- **LMIA – Transition Plan**

- Transition Plans will be required for high-wage foreign workers.
- Employers are required to submit transition plans with their LMIA application.
- The Transition Plan is a mandatory requirement for all employers hiring high-wage TFWs.

# 1. The TFWP (cont'd)

- **LMIA – Transition Plan (cont'd)**

- Ensures that businesses relying on TFWs transition to a Canadian workforce over the period of time covered by the duration of employment.
- Employers applying for an opinion may be exempt if they are hiring TFWs for positions with a limited duration. The employment duration:
  - 1 to 120 days; OR
  - more than 120 days to a maximum of 2 years.

# 1. The TFWP (cont'd)

- **LMIA –Expedited Processing**

- Employers hiring workers in certain occupations will be eligible to have their LMIA applications processed in just 10 days.
- Regular LMIA applications are being processed in 8 weeks.

# 1. The TFWP (cont'd)

- The primary categories under the new TFWP are...
  - a) **High-wage**: occupations include managerial, scientific, professional and technical positions as well as the skilled trades.
  - b) **Low-wage**: occupations include general labourers, food counter attendants, and sales and service personnel.

# 1. The TFWP (cont'd)

- The primary categories under the new TFWP are... (cont'd)
  - c) **Primary Agricultural Stream**: includes positions related to on-farm primary agriculture such as general farm workers, nursery and greenhouse workers, feed lot workers and harvesting labourers.
  - d) **Highest-demand, highest-paid or shortest-duration**: Processed within 10 business days.
  - e) **Live-in Caregiver Program**: No changes have been made to this program.

# 1. The TFWP (cont'd)

- **International Mobility Program (“IMP”)**
  - The IMP’s are LMIA-exempt programs.
  - IMP programs include the Working Holiday program (International Experience Canada), NAFTA, and other free trade agreements.
  - Citizenship and Immigration Canada will be imposing a \$100 privilege fee on holders of open work permits in the summer of 2015.

# 1. The TFWP (cont'd)

Temporary Foreign Worker Program	International Mobility Programs
<ul style="list-style-type: none"><li>• Based on employer demand to fill specific jobs</li></ul>	<ul style="list-style-type: none"><li>• Not based on employer demand</li></ul>
<ul style="list-style-type: none"><li>• Unilateral and discretionary</li></ul>	<ul style="list-style-type: none"><li>• Based largely on multilateral / bilateral agreements with other countries (ex – NAFTA, GATS)</li></ul>
<ul style="list-style-type: none"><li>• Employer must pass LMIA</li></ul>	<ul style="list-style-type: none"><li>• No LMIA required</li></ul>
<ul style="list-style-type: none"><li>• Employer specific work permits (tied to one employer)</li></ul>	<ul style="list-style-type: none"><li>• Generally open permits (participants have greater mobility)</li></ul>
<ul style="list-style-type: none"><li>• Main source countries are developing countries</li></ul>	<ul style="list-style-type: none"><li>• Main source countries are highly developed</li></ul>

## 2. Changes to the International Student Program

- On June 1, 2014, new rules that reduce the potential for fraud or misuse of the student program while protecting Canada's international reputation for high-quality education and improving services to genuine students came into force.

## 2. Changes to the International Student Program (cont'd)

Former Regulations	New (current) Regulations (As of June 1, 2014)
<ul style="list-style-type: none"><li>✓ Applicants must show that they <i>intend</i> to pursue studies in Canada when applying for a study permit.</li></ul>	<ul style="list-style-type: none"><li>✓ Applicants must enrol in and continue to pursue studies in Canada. Failure to do so could lead to removal from Canada.</li></ul>
<ul style="list-style-type: none"><li>✓ Applicants may apply for a study permit to pursue studies at any educational institution in Canada.</li></ul>	<ul style="list-style-type: none"><li>✓ Study permits will only be issued to successful applicants who are pursuing studies at an educational institution that has been designated to receive international students.</li></ul>

## 2. Changes to the International Student Program (cont'd)

Former Regulations	New (current) Regulations (As of June 1, 2014)
<p>✓ <b>Study permit holders pursuing studies at publicly-funded and certain privately-funded post-secondary institutions must apply for an Off-Campus Work Permit to be able to work up to 20 hours per week off-campus during the academic session and full-time during scheduled breaks.</b></p>	<p>✓ <b>Study permits will automatically authorize the holder to work off-campus for up to 20 hours per week during the academic session and full-time during scheduled breaks without the need to apply for a separate work permit. The study permit holder must be pursuing academic, vocational or professional training of six months or more that leads to a degree, diploma or certificate at a designated institution.</b></p>

## 2. Changes to the International Student Program (cont'd)

Former Regulations	New (current) Regulations (As of June 1, 2014)
<ul style="list-style-type: none"><li>✓ Any international student can apply for a Co-Op Work Permit if a co-op placement is an integral element of their course of study.</li></ul>	<ul style="list-style-type: none"><li>✓ Only international students who are pursuing studies at a secondary school or at a designated institution may apply for a Co-Op Work Permit if a co-op placement is an integral part of their course of study.</li></ul>
<ul style="list-style-type: none"><li>✓ Visitors may not apply for a study permit from within Canada</li></ul>	<ul style="list-style-type: none"><li>✓ Visitors may apply for a study permit from within Canada if they are at the pre-school, primary or secondary level, are on an academic exchange or a visiting student at a designated learning institution, or have completed a course or program of study that is a condition for acceptance at a designated learning institution.</li></ul>

## 2. Changes to the International Student Program (cont'd)

Former Regulations	New (current) Regulations (As of June 1, 2014)
<p>✓ International students who have completed their studies but hold valid study permits can remain legally in Canada until the expiration of their study permit.</p>	<p>✓ A study permit becomes invalid 90 days following the completion of studies unless the foreign national also possesses a valid work permit or another authorization to remain in Canada.</p>

## 2. Changes to the International Student Program (cont'd)

Former Regulations	New (current) Regulations (As of June 1, 2014)
<ul style="list-style-type: none"><li>✓ There are no references in existing regulations that clearly state that Registered Indians who are also foreign nationals are exempt from the requirement to obtain a study permit.</li></ul>	<ul style="list-style-type: none"><li>✓ Registered Indians who are also foreign nationals may study in Canada without a study permit as they have the right of entry into Canada.</li></ul>
<ul style="list-style-type: none"><li>✓ Study permit holders are not authorized to work after the completion of their studies while awaiting approval of their Post-Graduation Work Permit</li></ul>	<ul style="list-style-type: none"><li>✓ Eligible international graduates will be authorized to work full-time after their studies are completed until a decision is made on their application for a Post-Graduation Work Permit.</li></ul>

### **3. The New Definition of a “Dependent”**

- Effective August 1, 2014 the definition of a dependent child is changing for CIC’s immigration programs.
- The age at which a child will be considered a dependent is being reduced, from under 22 years of age to under 19 years of age.

### 3. The New Definition of a “Dependent” (cont’d)

- Children of applicants who are 19 or over but are financially dependent on their parents and are enrolled in full-time studies will no longer be processed as dependent children.
- In all cases, a child will continue to be considered a dependent, regardless of age, if they have depended on their parents for financial support because of a mental or physical condition.

## 4. Changes to the Citizenship Act

- On June 19, 2014 Bill C-24 received final passage and Royal Assent.
- These changes will strengthen the rules around access to citizenship.

## 4. Changes to the Citizenship Act (cont'd)

- Applicants aged 4 – 64: meet language requirements and pass knowledge tests (in either English or French).
- Citizenship applicants: need to be physically present in Canada for four out of their last six years.
- They will need to be physically present in Canada for 183 days per year for at least four of those six years. (*coming into force in June 2015*).

## 4. Changes to the Citizenship Act (cont'd)

- Authority to revoke Canadian citizenship from dual citizens and deny it to PRs who were members of an armed force or an organized armed group engaged in armed conflict with Canada.
- Authority to revoke Canadian citizenship and deny it to PRs who are convicted of terrorism, high treason, treason, or spying offences.

## 4. Changes to the Citizenship Act (cont'd)

- Changes citizenship grant to a single-step process as opposed to the previous three-step process. *(to be implemented summer 2015).*
- Creates a fast-track mechanism for citizenship for PRs serving with—and individuals on exchange with—the Canadian Armed Forces to honour their service to Canada. *(now in force).*

## 5. Termination of the Federal Investor Program

- In July 2012, the Federal Immigrant Investor program was put on hold.
- The program was aimed at experienced business people to contribute to Canada's growth by investing in Canada's economy.
- Investors would have to show that they:
  - have business experience
  - a net worth of at least C\$1,600,000 that was gained legally and
  - invest C\$800,000.

## 5. Termination of the Federal Investor Program (cont'd)

- On June 19, 2014, the Government terminated the Federal Immigrant Investor program.
- Other investment immigrant options are available and these have become increasingly popular since the Federal Immigrant Investor program was put on hold in July 2012
- The Startup Visa program was launched on April 1, 2013 by CIC to recruit innovative immigrant entrepreneurs to Canada.

## 6. Express Entry (*Permanent Residence*)

- To be implemented in January 2015.
- Skilled foreign workers who are interested in coming to Canada will submit an Express Entry form online.
- Candidates who meet the minimum criteria will be placed in the express entry pool and will register with job bank.
- The express entry pool will be ranked.

## 6. Express Entry (*Permanent Residence*) (cont'd)

- Candidates with a valid job offer or provincial nominee nomination will be quickly offered an “Invitation to Apply”.
- They will need to apply for permanent residence under the Federal Skilled Worker Program, Federal Skilled Trades Program, Canadian Experience Class or Provincial Nominee Programs.

# Useful Links

1. [www.cic.gc.ca](http://www.cic.gc.ca) – Citizenship and Immigration Canada
2. <http://www.esdc.gc.ca/eng/home.shtml>  
- Employment and Social Development Canada



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