



**Matrixvisa Inc.**

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Immigration Law and International Recruitment

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## *Newsletter: 30 September 2010*

### **IMMIGRATION NEWS**

#### Many Policy Changes

We have seen major changes in immigration policy the past 24 months. Here is a rough overview:

- Feb 2008: An announcement was made that a new occupation list will come into effect.
- Nov 2008: The new occupation list was published with 38 occupations.
- Feb 2009: All new applications (only application forms) must be sent to the Central Intake Office (CIO) in Nova Scotia to be submitted. Once the CIO recommended the application (took about 2 months) the applicant then had 120 days to submit the supporting evidence to the visa office in the country where the foreign national are living.
- 26 June 2010: A new occupation list was published (see further down) and full submissions must be submitted to the CIO. Due to these new rules all forms and supporting evidence must be submitted to the CIO together. Prior to this change only the forms was submitted to the CIO.

Before going into detail here is some background about the immigration process of skilled professionals: A foreign national can obtain permanent residence in the Federal Skilled Worker Class; the Provincial Nominee Class, Federal Investor Class or the Federal Entrepreneur Class. Foreign nationals whom do not make large investments or start businesses, can obtain permanent residence based on skills en experience. For the latter group of applicants the choice is between the Federal Skilled Worker Class or the Provincial Nominee Class (nominated by an employer in

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a specific province), also known as the “PNP Class”. There are many differences, but the essential differences between these two classes are as follows:

- The PNP Class requires a job offer from an employer in Canada and the Federal Skilled Worker can be followed without a job offer.
- The PNP Class place less emphasis on language skills and settlement funds but more on the job offer by an employer in the province while all Federal Skilled Worker applicants will require language tests and settlement funds.
- The PNP Class seems to be faster than the Federal Skilled Worker Class

### Processing Times

During August 2010 we saw a significant increase in processing times at the Canadian High Commission located in Pretoria within the Federal Skilled Worker Class. In 2008 we had cases approved in 3-6 months and now this has jumped to **9-12 months**. We are not sure what the expected processing time would be in Pretoria for the Provincial Nominees Class.

We received medicals instructions by the end of September 2010 of cases that were submitted in London (UK) in the first week of April 2010. Therefore the processing time is roughly **6 months**. From the first week of April 2010 all the applications from Islamabad will also be sent to London (UK). This will probably result in increased processing time in the Federal Skilled Worker Class at the Canadian High Commission in London.

Given this slowdown we advise clients to submit cases in the Provincial Nominee Class instead and choose Buffalo instead of Pretoria) as the preferred processing office- if it is allowed by the province. In Buffalo we have had medical instructions issued within 6 weeks after the submission was being made !

To make matters worse, the work being done by more than dozen visa posts are now being channeled to one office, the Central Intake Office (in Nova Scotia). There, 47 officers (probably with limited experience), are going to attempt to deal with the full submissions (application forms plus all supporting evidence) in the Federal Skilled Worker Class. These full submissions was previously submitted to Pretoria, Nairobi, Paris, Hong Kong, Beijing, Sydney, Buffalo, Port of Spain, Vienna, Kiev, etc. As someone recently said “ they are not ready for prime time.”

Before this policy change that took effect on 26 June 2010 the processing time of the first phase at the CIO in Nova Scotia slowed down to 4 months as applications that were submitted in May 2010 were finally recommended for further processing at visa posts in Sept 2010 (only days ago). In the second phase the supporting evidence had to be submitted to visa posts (where the foreign national resides) for further processing.

From 26 June 2010 full submissions (forms and supporting evidence) has to be submitted at the CIO. That could be 1000 applications a week and the hypotheses is that we will see a lengthy processing time - at least **6-8 months** at the CIO in my opinion. The processing time could be longer.

The combined processing time in the Federal Skilled Worker Class applications (submitted after 26 June 2010) could increase up to 15-20 months (**6 to 8 months** plus **9 to 12 months for Pretoria or London, UK**).

Those that applied in the Federal Skilled Worker Class *before Nov 2008* (the date before the first occupation list was published, i.e. under the “old” rules) will see processing times of at least 5-6 years. According to the research done in our newsletter of Jun 2010 it would be more than 10 years (close to 13 years) , given the small quota of the Canadian High Commission in Pretoria.

### New Occupation List

On 26 June 2010 a new list occupation was published. In order to be eligible for permanent residence in the Federal Skilled Worker Class, a foreign national must have a valid offer of arranged employment (approved by Service Canada), OR be a skilled worker who has had one year of continuous full-time or equivalent part-time paid work experience in at least one of the following eligible occupations within the last ten years:

- 0631 Restaurant and Food Service Managers
- 0811 Primary Production Managers (Except Agriculture)
- 1122 Professional Occupations in Business Services to Management
- 1233 Insurance Adjusters and Claims Examiners
- 2121 Biologists and Related Scientists
- 2151 Architects
- 3111 Specialist Physicians
- 3112 General Practitioners and Family Physicians
- 3113 Dentists
- 3131 Pharmacists

3142 Physiotherapists  
 3152 Registered Nurses  
 3215 Medical Radiation Technologists  
 3222 Dental Hygienists & Dental Therapists  
 3233 Licensed Practical Nurses  
 4151 Psychologists  
 4152 Social Workers  
 6241 Chefs  
 6242 Cooks  
 7215 Contractors and Supervisors, Carpentry Trades  
 7216 Contractors and Supervisors, Mechanic Trades  
 7241 Electricians (Except Industrial & Power System)  
 7242 Industrial Electricians  
 7251 Plumbers  
 7265 Welders & Related Machine Operators  
 7312 Heavy-Duty Equipment Mechanics  
 7371 Crane Operators  
 7372 Drillers & Blasters - Surface Mining, Quarrying & Construction  
 8222 Supervisors, Oil and Gas Drilling and Service

Obviously the applicant must also obtain a score of 67 points in the Federal Skilled Worker Class.

There will only be a total 1000 applications accepted per occupations per year before that specific occupation will close.

#### More Constrictive Policy.

**It is important to remember that the occupation list was at 38 occupations and now has decreased to 26 with a cap of 1000 applications for each occupation. It is also interesting to note that on 31 Dec 2009 there were 386 065 in the “inventory” of the Federal Skilled Worker Class. “Inventory” quantity is the foreign nationals that applied for permanent residence under old rules. These applications are waiting in line at different visa posts and general referred to as the “inventory” . If the current occupation list (26 occupations listed above) is closed down or abolished it would mean that the existing “inventory” of applicants will last another 5-6 years because only 70 000 people are issued with permanent residence visas in the Federal Skilled Worker Class per annum. The problem is that many of the applicants in the existing “inventory” might have skills that are not in demand by**

industry but that might not be enough to prevent this from becoming a reality. It can be seen that the rules are becoming more restrictive and the Federal Skilled Worker Class could completely close down. If that would happen, applicants with job offers being approved will still be eligible. The advice is to apply for permanent residence while one is still eligible.

### Bill-C35

Bill-C35 is an Act, amending the Immigration and Refugee Protection Act that would make it an offence to practice immigration law without being an authorized representative. Such an offence could result in a jail sentence for up to 2 years and a fine of CAD50 000 or both. On Friday 24 September it was deferred to the Parliamentary Standing Committee on Immigration where I hope to appear at during the next 6-8 weeks. Bill C-35 specifically mentioned the following:

#### Quote

**91. (1) Subject to this section, no person shall knowingly represent or advise a person for consideration — or offer to do so — in connection with a proceeding or application under this Act.**

#### **Persons who may represent or advise**

**(2) A person does not contravene subsection (1) if they are a member in good standing of (a) a bar of a province or the Chambre des notaires du Québec; or (b) a body designated under subsection (5)**

#### Unquote

Therefore no one can give advice on any immigration matter if the person is not an authorized representative. This would include giving advice on work permits, labour market opinions and permanent residence applications. This would include recruiters that provide work permit advice for free. There is a strong movement to expand this section to include anyone assisting the unauthorized practice of immigration law, such as visa officers working with those that commit such an offense.

### Concurrent Processing Being Changed

In December 2009 there were heard rumors that concurrent processing is being cancelled at one visa post. What is concurrent processing ? It is the policy whereby a foreign national may apply for a work permit while he or she waits for the labour market opinions to be completed, shortening the waiting time. In March 2010 we received notification from the visa office in that concurrent processing is not being followed which lead to a significant slowdown in processing of work permits. Finally, in Sept 2010, the policy of concurrent processing was abolished through an announcement, 9 months after the visa office in Pretoria abolished the policy of concurrent processing. That is how Canada Immigration work at times: change procedures and then later inform the public !

### Short Work Permits and it's Implication

We have also seen labour market opinions only being approved for 12 months in technical occupations such as electricians, technicians etc. We have one client that can only appoint crane technicians with more than 10 000 hours in overhead cranes. These experts are not available in Canada and will not be available in 12 months either. However we are stuck with LMO's that is only valid 12 months. As a result the work permits would only be valid 12 months as well. Until such time leave for a judicial review is requested from federal court we would have to live with it.

Due to the fact that work permits expire in 12 months in many occupations clients are advised to apply for nomination in the Provincial Nominee Class within the first month of arrival in Canada as that certificate can be used for an extension of work permits in stead of an Labour Market Opinion or LMO. Renewal of work permits with Labour Market Opinions can be very risky and therefore request for nomination in the Provincial Nominee Class must be submitted as soon as possible after arrival on a work permit.

For those that are abroad without job offers, have no choice and must submit the request for permanent residence within the Federal Skilled Worker Class.

## **ECONOMIC NEWS**

Finally the housing market has shown signs of cooling off from the overheated state it was in for several months. The price increases in real estate prompted many to warn of a bubble. Experts claim that in some parts of the country real estate is 30 % overvalued. In May 2010 eight percent

less homes were sold compared to May 2009. The average national house price increased to CAD 342 662 which is still 4,9 % higher than one year earlier.

Employment rose by 93,200 in June 2010 (Full-time employment increased by 48,900 in June, and part-time jobs by 44,200) , following gains of 24,700 in May and April's record number of 108,700 where created. The jobless rate fell to 7.9 percent, the lowest since January 2009, from 8.1 percent. The biggest gains where in Ontario where about 60 000 jobs were created. Since June 2009 the economy added roughly 30 000 jobs per month.

In Canada the sale of Fords increased by 23 % the first 6 months of 2010 and Chrysler by 36 %.

Canada is one the of the world leaders in Uranium production and has benefited from increased uranium purchases from China in the recent months.

The forecast by the International Monetary Fund (IMF) is that Canada's economy will grow at a rate of 3,6 % for 2010 and 2,9 % during 2011. The IMF also predict that Canada will take the lead in economic development amongst the developed nations.

The expectation is that Canada National Rail (or "CN") will be hiring 10 000 new employees over the next 10 years as many employees will be retiring.

Canadian consumer confidence is strong with about 67% of Canadians believing the economy is strong and doing well, up from 62 % in March.

It therefore seems as if we are slowly crawling out of the recession.

Best Regards



Cobus (Jacobus) Kriek on behalf of Matrixvisa Inc.  
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