



Matrixvisa Inc.

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Immigration Law and International Recruitment

Newsletter: 19 June 2010

IMMIGRATION NEWS

The Royal Canadian Mounted Police charged an uncertified immigration advisor in Windsor Ontario with fraud on 16 April 2010. Francesco Salvatore (Sam) Burgio is facing eleven charges for fraud after clients allegedly paid his firm thousands of dollars to submit their applications to immigration. Only members of CSIC, a provincial or territorial bar, or Quebec notaries can advise, represent or consult clients on immigration matters before the Government of Canada for a fee. Unfortunately uncertified immigration advisors, known as ghost agents, have exploited legal loopholes that allow them to continue offering immigration services with little danger of law enforcement taking action.

It was reported in the media that it could become a criminal offence to assist in immigration matters if the applicants are not authorized to do so. According to the rumors giving immigration advice without a license will hold a **CAD50 000 fine and/or 2 years jail term upon conviction**, even if immigration advice is provided outside of Canada.

It is also expected that the existing list 38 occupations will change shortly. It is suggested that everyone ensure that all submissions are made as quick as possible.

The Minister of Citizenship, Immigration and Multi-culturalism of Canada, Mr. Jason Kenney has announced to also change the refugee system to Canada so that the processing time decreases from the current 19 months in Canada to 2 months. It is also planned that refugees from certain countries will not be accepted. Hungary was quoted as one such a country where 2500 refugee claims was heard in 2009 but only 3 was accepted.

Ontario is now making it easier for foreign graduate students to stay in the province when their studies are completed, as part of a wider strategy to fuel the economy by casting the province as a destination for higher education. The new rules will allow students who have earned their PhD at an Ontario campus to be fast-tracked for permanent residence status. The measures are part of the province's new Open Ontario plan, which aims to increase foreign student enrolment in Ontario by 50 per cent in the next five years.

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PROCESSING TIMES FOR IMMIGRATION IN PRETORIA

The processing times for permanent residence in the Canadian High Commission in Pretoria is dependent upon the inventory (people currently waiting in line) and the quota or target for each class. On 2 Jan 2010 there were **6648 people** in the inventory at the Canadian High Commission in Pretoria.

According to the response to our Access to Information Request that was submitted on 2 Jan 2010, the inventories (people waiting for visas) for the following classes at the Canadian High Commission in Pretoria are as follows:

- a. 3386 persons in the Skilled Worker Class (not families or principle applicants, but people)
- b. 305 people in the Business Class
- c. 187 people in the Provincial Nominee Class
- d. 3311 people in the Family Class (not including parents)
- e. 183 parents and grand parents
- f. 121 Government sponsor refugees
- g. 1359 private sponsored refugees
- h. 151 Dependents of refugees
- i. 8 Humanitarian and Compassionate cases

Some of the targets or quotas (people allowed to enter Canada per year per visa office) for 2010 were as follows

- a. Federal Skilled Worker Class: 250 people
- b. Provincial Nominee Class: 250 people
- c. Parents & grandparents: 120
- d. Business Class: 5 people
- e. Humanitarian and Compassionate cases: No target was mentioned (not even a zero). The space was left blank.

Source: The document that was received was dated 19 December 2009 and the government file number was A-2009-12436 /bm dated 29 January 2010

Analyses about the Federal Skilled Worker Class: In November 2008 the Minister of Citizenship and Immigration Canada (CIC) has identified 38 occupations to be fast tracked (completion the full) case within 11 months. All these occupations will receive preferential processing. However those that applied prior to 28 Feb 2008 would have to wait until the new priorities of 38 occupations are completed. Furthermore CIC has only indentified visas for 250 people in the Federal Skilled Worker Class. If 3386 people is in the inventory in Pretoria and this figure is divided by 250 (which is the quota or target for the Federal Skilled Worker Class) per year would

mean that it would take at least **13,54 years** to get through the existing inventory of old applications (pre-priority list) – if no new applications in the priority list of 38 occupations is received.

Just remember the Minister has indicated that everyone that has experience in the 38 occupations will be fast tracked within 11 months. Unfortunately those that applied before November 2008 will not receive preferential treatment and will wait at least 5 years for their visas - according to the above calculations they would wait **13,54 years**.

We have clients that applied 5 years ago and one was issued medical instructions recently. One might think that everyone that applied 5 years ago would be receiving medicals instructions. Wrong. The prediction is that it will now take significant longer for those that applied before November 2008 as the quota in the Federal Skilled Worker Class decreased to 250 people on 1 January 2010 from 640 people in 2008.

Analyses about Parents in Family Class: The family class is expected to take roughly 18 months (183 divided by 120 = 1,53 years or 18 months).

We have been swamped with requests by people to immigrate. The reality is that if an applicant's experience falls outside the list of 38 occupations, permanent job offers from Canadian employer are needed. Some expected an increasing emphasis would be placed on having job offer in Canada.

These permanent job offers must be approved by Service Canada and is called an Arranged Employment Opinion or AEO. The processing time for an AEO has increased from 6 weeks in 2009 to 16 weeks in April 2010 and recently it seemed as if it was increased to 5 months. Once an applicant has obtained an AEO the next step would be to submit an application inland at the Central Intake Office (CIO) where processing is roughly 8-12 weeks. Once recommended for processing by the (CIO) processing at the Canadian High Commission in Pretoria is roughly 4 months before medical instructions are issued- if there is no questions or issues.

Therefore: If an applicant obtain a permanent job offer it will take 5 months for the Arranged Employment Opinion to be issued, 2 -3 months of processing at the Central Intake Office, 4 months in Pretoria before medical instructions are issued (hopefully) and another 2 months for the medical examination to be finalized. The total would be 13-14 months- which is 2 months longer than the promise made that processing will be 11 months.

It must be mentioned that AEO's can only be used for permanent residence applications and not for work permits.

An AEO may not be used for the sole purpose to assist an immigrant to obtain sufficient points to immigrate or to expedite an application. Applicants will be questioned on landing as to

whether the intend is there to take the job offer. If the job offer is not genuine it could result in the applicant's case being rejected or after obtaining permanent residence the applicant could lose his/her permanent residence status if it is proved that the job offer was just made to obtained permanent residence.

WORKING IN CANADA & FINDING WORK WITHOUT PERMANENT RESIDENCE

If an employer cannot wait the 11-14 months for a immigrant to arrive with a AEO, the next option is a work permit. However most foreign workers a Labour Market Opinions (LMO) to work in Canada with a work permit.

What si a LMO ? In the process of providing a LMO the officer of the federal Government must evaluate 6 factors pursuant to Immigration and Refugee Protection Regulation 203 (3):

- (a) whether the employment of the foreign national is likely to result in direct job creation or job retention for Canadian citizens or permanent residents;
- (b) whether the employment of the foreign national is likely to result in the creation or transfer of skills and knowledge for the benefit of Canadian citizens or permanent residents;
- (c) whether the employment of the foreign national is likely to fill a labour shortage;
- (d) whether the wages offered to the foreign national are consistent with the prevailing wage rate for the occupation and whether the working conditions meet generally accepted Canadian standards;
- (e) whether the employer has made, or has agreed to make, reasonable efforts to hire or train Canadian citizens or permanent residents; and**
- (f) whether the employment of the foreign national is likely to adversely affect the settlement of any labour dispute in progress or the employment of any person involved in the dispute.

Essentially the employer must advertize and provide evidence that suitable Canadian Citizens or Canadian Permanent Residents cannot be found to perform this work before a work permit can be issued to foreigner.

The trend for providing "positive" LMO's (approvals) has been a downward trend in British Columbia (BC) and Alberta.

- During 2008 in Alberta 17 475 LMO was approved and in 2009 this dropped to 6155 LMO's which is **65 % decline in number of approvals.**
- During 2008 in BC 2008 8093 LMO's were approved and in 2009 this dropped to 1324 LMO's which is **84 % decline in number of approvals.**

The downward trend is not the result of denials, but is probably a result of denials and less LMO request being submitted.

These downward trends is It is predicted the approvals will again slowly increase in 2010 and 2011.

Closely related to the issue of LMO's and work permits is that foreigners sometimes assume that they have the right to work anywhere in Canada. I have heard a potential immigrant and foreigner saying the following: "I am highly educated and a professional....." Unfortunately so are many Canadians! Foreigners without permanent residence visas coming to Canada stand at the back of the line when apply for positions in big cities or in popular locations. Once a foreigner has become a Canadian permanent resident they may compete for jobs in any location and receive equal treatment in the competition. Until a foreigner has obtain so called "PR" status, by law, permanent residents and citizen must receive the a job offer first and only when "locals" are not available, then only may a foreigner can receive a job offer.

We are often approached by prospecting immigrants that had to pay money to recruiters to find work in Canada. It is a contravention in 3 provinces to receive money from a person seeking work:

- In British Columbia (BC) receiving money is a contravention of Section 10 of the Employment Standards Act Section 10. Pursuant to the same law employment agencies must be registered and have a license.
- In Alberta (AB) a registered recruiter or employment agency may not receive any money for finding work for anyone as that is contravention of the Fair Trading Act of Alberta.
- In Manitoba (MB) it is a contravention to receive money from anyone searching for employment pursuant to the Worker Recruitment and Protection Act.
- In order to assist immigrants to find work recruiters must be licensed in BC, AB and MB. Before you pay money ensure that the employment agency or recruiter by requesting copies of licenses.

STUDY PERMITS THE CANADIAN HIGH COMMISSION IN PRETORIA

A recent Access to Information Request in Pretoria has revealed that from 2001 to 2008 the approval rate was about 95 % to 81%, but that the approval rate of study permits dropped to 63 % in 2009.

Year	Applications Received	Approved - Permits Issued	Refused	Total	Approval Rate
2001	413	349	18	367	95%
2002	358	285	24	309	92%
2003	354	282	24	306	92%
2004	328	265	29	294	90%
2005	389	309	29	338	91%
2006	489	346	55	401	86%
2007	604	462	75	537	86%
2008	806	483	116	599	81%
2009	593	433	255	688	63%

Therefore 37 % of all study permit requests during 2009 were refused. It is assumed that a large percentage were self-represented applicants.

IMMIGRATION LAW ARTICLE PUBLISHED

The author completed an analysis of the existing policy and interpretation of Regulation 203 (3) (f) : the roles of unions in Labour Market Opinions:

<http://www.matrixvisa.com/pages/article.htm>

CANADIAN INVENTIONS AND BUSINESS LEADERS

I recently read a book called “**The Big Book of Canadian Trivia**” and I want to share just a few of the amazing Canadian bits of trivia with you:

- ✓ The founder of Kraft foods (See <http://www.kraftfoodscompany.com>, owners of Oreo Cookies and Miracle Whip) is a Canadian, born in Stevensville close to Niagara Falls in Ontario during the 1870’s.
- ✓ Elizabeth Arden the well known cosmetics brand is named after Toronto born, Elizabeth Arden.
- ✓ Alexander Graham Bell (Inventor of the telephone), was born in Canada from Scottish parents and passed away in 1922 in Nova Scotia, where he was born.
- ✓ Sir Sandford Fleming a civil engineer developed time zones when Canada’s transcontinental railway line was built in the late 1800’s
- ✓ Sir Richard Banting, a Canadian, was part of group of scientist that developed insulin.
- ✓ Immigrants in Ontario will know that if one need a bottle of wine it can only be bought at the LCBO (Liquor Control Board of Canada) which is owned by the Ontario government. I do not have problem with the concept as the profits are used for a good cause: buildings schools, building roads etc. What is amazing is that the LCBO is the world largest retailer of alcoholic beverages !
- ✓ Remember Bata shoes for the school days? Well the head office of Bata shoes was in Canada (Ontario) and the owner was Thomas Batha that emigrated here from Czech Republic and eventually owned shoe factories on several continents. They established a new town 160 km west of Toronto and called it Batawa (mix between Ottawa and Bata).
- ✓ The person that developed trivial pursuit is a Canadian as well.

ECONOMIC NEWS

It is expected that the bank rate of the Bank of Canada will increase. This will mean slightly more expensive mortgages. The housing market is still hot and some say overheated. In 2007, 95000 homes were sold in Canada in this year the record is expected to be broken with 100 000 homes to be sold. Although the May 2010 homes prices are 12 % higher than May 2009, the market is expected the cool off a little bit as the interest is suspected to increase with 1 %.

The forecast is that the economy will grow at a rate of 5,8 percent during the first quarter of 2010 but will eventually slow down to 1,9 % in the 3 rd quarter of 2011. The inflation is expected to hover around 2 %.

In November 2009 the economy developed 7 900 jobs and 43 000 in February 2010. Critics say that many of these jobs were through temporary agencies and self employment that rose with 80 000 people from Dec 2008 to Dec 2009.

One of Canada's largest exporters is Bombardier. It is exporting passenger rail trains to the cities of Toronto, Brussels Singapore and New York at present.

WEATHER IN CANADA

A frequently asked question is about Canada's weather: I usually start off by saying that Canada is 12 000 km wide and there are many variations, depending where you live. Toronto's weather is similar to that of New York City. Thus winter Toronto had 3 cm of snow, Vancouver had zero cm of snow. Washington DC in the USA (1200 km south of Toronto where the White House is) received 60 cm of snow during February 2010!

In South Western Ontario and the Okanagan Valley in BC there are many fruit and wine farms- which would not be possible without warm summers. See these links: <http://www.swova.ca/> and <http://www.canadianvintners.com/woc/ontario.html>

In the Prairies it can get extremely cold with a lot of snow and the winters are longer than in Toronto or Vancouver.

Therefore be careful not to assume that all places in the USA is always warm and Canada is always cold.

CRIME IS AT ITS LOWEST LEVEL IN 30 YEARS IN CANADA

It is always strange to hear when petty crime reaches the television: last week it was reported on television that a man was charged in Oshawa (just west of Toronto) with having a child on his lap while he was driving. From this it is clear that crime is so low that even these types of offences reach the television.

The following was obtained from the website of Statistic Canada, www.statcan.gc.ca :

Quote

Police-reported crime in Canada continued to decline in 2008. Both the traditional crime rate and the new Crime Severity Index fell 5%, meaning that both the volume of police-reported crime and its severity decreased. Violent crime also dropped, but to a lesser extent.

This was the fifth consecutive annual decline in police-reported crime. There were about 77,000 fewer reported crimes in 2008, including 28,000 fewer thefts of \$5,000 and under, 22,000 fewer break-ins and 20,000 fewer motor vehicle thefts.

Unquote

On 2 Feb 2010 it was reported in the Toronto Star that crime dropped by 33 % from 1998 to 2008 (in a 10 year period)!

The following is a quote from a Juristat Article Vol 29, no 3 from July 2009 and the author is Marnie Wallace:

Quote

Not only was there less police-reported crime in Canada in 2008 than the previous year, it was also less serious in nature. Canada's police-reported crime rate (PRCR)—which measures the overall volume of crime reported to and by the police—**dropped 5% in 2008 to its lowest level in over 30 years**. The severity of crime, as measured by the new police-reported Crime Severity Index, also dropped in 2008, from 95.2 to 90.0 (for more information on the Crime Severity Index, refer to Text box 1). The 5% drop in overall crime severity represented the fifth consecutive annual decrease (Chart 1.a). When looking only at violent crime, both the volume and severity also decreased in 2008. The Violent Crime Severity Index was down 3%, to 94.6, while the violent crime rate fell slightly less (-2%) ***Virtually all Criminal Code and Federal Statute offences declined in 2008***, with the exception of increases in some offences including homicide, aggravated assault, fraud, counterfeiting, impaired driving and cannabis possession. **Together, seven offences accounted for about 80% of the volume of all reported crime in Canada:**

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- theft under \$5,000 (25%),
- mischief (17%),
- break and enter (10%),
- common assault (8%),
- administration of justice offences (8%),
- motor vehicle theft (6%),
- and disturb the peace (5%).

The drop in the PRCR in 2008 was driven by decreases in virtually all of these high-volume offences. In total, there were about 77,000 fewer reported offences in 2008. **Most notably, there were about 28,000 fewer thefts under \$5,000, 22,000 fewer break and enter and 20,000 fewer motor vehicle thefts in 2008.**

Unquote

One of the hot topics of discussion in Canadian society is the use of Tazers (guns that project an electric charge through a thin wire) in fighting crime. In 2009 it was used 273 times by the Toronto police and the plan is to issue more officers with Tazers. In about 40% of the cases of those brought under control with a tazer, was either drunk or emotionally disturbed. In my view the majority of criminals are not armed and therefore tazers would be an appropriate tool in the hands of police officer.

MOVING MONEY OUT OF SOUTH AFRICA

I would like to introduce you to the services Steve Porter from CashKows (www.cashkows.com), Steve mentioned the following about Cashkows: ``We are a professional and financial services company which offers a unique service that reunites South Africans with cash they have forgotten about, written off, don't know they have or don't realise they can access. With reference to the final category we are currently assisting a large number of South Africans to extract funds locked in Retirement Annuities in South Africa, an opportunity which has only opened up recently following a change in tax legislation. With the current strength of the Rand and the risks associated with increased political tension here in SA we expect the numbers of clients seeking our services will continue to rise. Steve's contact details are: steve@CashKows.com and +27 72 810 0315.

CREDIT SCORE IN CANADA

The following is a contribution by Johan Du Preez mortgage broker:

Sadly the vast majority of Canadians have very little knowledge of how their credit is determined, what can damage it, how it can be improved or how they might qualify for credit. This is because

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no organization in Canada is responsible for teaching consumers or business owners about their credit. Not having this vital knowledge leaves borrowers vulnerable to lenders who might charge higher than necessary interest rates or apply ominous terms and conditions to a loan. In fact no bank will ever show a borrower his credit worthiness, even less go through their credit report with them. New immigrants are often left frustrated because they don't know how to obtain or establish credit in Canada even if they have been excellent and responsible bank clients in the native countries.

The intent of this set of articles is to equip borrowers so that they can make informed decisions about credit that will affect them for many years in their future. It is important to know that the information on the credit bureau belongs to you and you need to manage it.

Part 1:

In Canada the credit worthiness process is automated. Gone are the days of trust where your bank believed you when you told them what your liabilities were. Creditors now assess your credit worthiness through third party agencies. The majority of all organizations that extend credit to consumers and businesses are members of credit reporting agencies. Credit reporting agencies are profit making businesses and Canada has two major ones; Equifax and TransUnion. Creditors report what accounts and how the accounts are paid to the credit reporting agency or agencies that they are members of. Being members of a credit agency allows the creditors to access information about the potential borrower in order to mitigate their risks.

Creditors include the following:

1. Banks & Financial services – If you apply for a credit card, line of credit, car loan, mortgage etc
2. Insurance companies – They can check your credit to see if they will insure you
3. Public utilities – Hydro, heat, water utility companies etc. They want to assess your record of paying your bills on a monthly basis and thus paying them for services delivered.
4. Government agencies – To find assets that can be seized for government debts
5. Canada Revenue Agency (CRA) – The tax department can look at your credit report if there is any suspicion that you are not reporting all your income
6. Employers – More and more employers are assessing the employability of candidates by their overall behavior. Not managing your finances, especially in management roles is not good.

No creditor is allowed to check a borrower's credit worthiness without their express consent. It is very important for a borrower to know when their credit worthiness will be assessed and not to trust that creditors will do the right thing with their credit worthiness. Every time you apply for credit you need to know that the creditor will check your credit; this includes cell phone companies etc and it is important for the borrower to manage this process. The creditor's

representative typically follows a process when assessing an applicant and it must be assumed that the creditor knows nothing about credit or why they are following a certain part of the process. For example if an applicant has a cell phone with a telecommunications company and she has paid her monthly bill on time, every time, it means that her credit with the telecom company is in good standing and there would be no need for her credit to be checked again if she applies to have a home phone from the same company. However, if she does not bring this to the attention of the telecom company's representative, the rep will just go through the application process and unnecessarily check her credit worthiness again.

Borrowers should avoid too many credit checks against them. Too many credit checks per year could reduce the borrower's credit score and it sends a signal to lenders that the borrower is either in too much need for credit and/or that they were declined for previous credit requests prior to the current credit request. Too many checks will adversely affect the borrower's ability to get credit.

Resource: The Complete Guide to Credit & Credit Repair for Canadians – Mike Morley. This book can be purchased from any Chapters store or Amazon.ca.

In Part 2 we will cover what information goes on a credit report.

Contributed by Jacques Du Preez

Mortgages originated as a licensed agent of **Mortgage Edge**.

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PS If you need a mortgage (`house bond`) speak to Johan!

DUAL CITIZENSHIP

Provision is made in the amended South African Citizenship Act (Act 88 of 1995), for South African citizens to retain their South African citizenship when becoming a citizen of another country.

An application to retain South African citizenship must be made BEFORE applicants apply for any other nationality or citizenship.

For those persons who lost their South African citizenship prior to October 1995, provision has been made for the reinstatement of such a person's South African citizenship after acquisition of foreign citizenship.

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Persons who became citizens of another country after October 1995 must return to South Africa and apply for the reinstatement of their citizenship there.

Applicants who are minors under the age of 18 do not need to apply for retention of SA citizenship as they do not lose it automatically by acquiring foreign citizenship.

In terms of the South African Citizenship Amendment Act, 2004 (Act # 17 of 2004), major South African citizens holding dual citizenship must always enter or depart South Africa making use of their South African passport only.

Exemption in Terms of Section 6(2). Retention of South African citizenship.

This exemption is applicable to South African citizens **who have not yet** acquired the citizenship of another country but who are contemplating of becoming one or in the process of obtaining one. This exemption will enable them to become a citizen of another country without losing their South African citizenship.

Exemption in Terms of Section 26(4). Exemption from the loss of South African citizenship.

South African citizens who lost their South African citizenship through formal acquisition of another citizenship whilst no longer a minor and without applying for retention prior to becoming a citizen of another country, may apply for exemption from the loss of their South African citizenship as long as they have acquired the other citizenship before October 1995.

Navigate to the website of the South African Consul General in Toronto for instructions:
<http://www.sacgtoronto.com/>

That's all for now.



Cobus (Jacobus) Kriek on behalf of Matrixvisa Inc.
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25 July 2007 TO 24 July 2010, Number/Numero 174215

Pour le Quebec, Avec juridiction dans tout le Canada et tous les pays

Valid for Quebec, all of Canada & All countries

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